The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. Ewing).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, November 20, 1995.
I hereby designate the Honorable THOMAS W. EWING to act as Speaker pro tempore on this day.

NEWMAN GINGRICH, Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member other than the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. Ford] for 2 minutes.

BACK ON THE JOB

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Tennessee [Mr. Ford] is recognized during morning business for 2 minutes.

Mr. FORD. Mr. Speaker, I rise to say to the Democrats and Republicans alike that we are very happy I know in this Congress that the Federal employees are now back on the job.

We would also like to point out, Mr. Chairman, that we also now know a little bit about this agreement among Democrats and the Republicans, the President and the Republican leadership. When we think in terms of taxing working people in this country, it is clear now that we will have that issue on the table to say that it is wrong for the Republicans to try to tax working families in this country.

And we also would look at it even closer now with this so-called crown jewel for the rich and the wealthy of this country, is that we can say to Speaker GINGRICH is that $245 billion is just absolutely too much of a tax break for the rich and wealthy of this Nation.

And I am glad to know that now that we will have the administration and Democrats and Republicans trying to come up with a plan that will in fact protect the Medicare recipients, the senior citizens of this country, children of this country, in making sure that we protect the environment.

And I am just happy to know that I was a part of this side of the aisle on Saturday, when our colleagues on the other side of the aisle wanted this House to leave and come back this afternoon at 6 o'clock. I am glad that the Democrats were able to shame the Republicans to stay here over the weekend so the Federal employees could go back to work.

And I thank you very much, Republicans, for shaming you in a way, but thanking you very much for coming over with the Democrats to say let us stay in session over the weekend, that the President and the Republicans could get together. And today the Federal employees are back at work.

HAITI

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. Goss] is recognized during morning business for 3 minutes.

Mr. Goss. Mr. Speaker, we all have some breathing space today, and it is welcome, and we are very happy for the successful efforts that took place over the weekend while we worked here to avoid this Government shutdown, and I am pleased that that has happened.

We all now have a chance to stand up and look around a little bit about what is happening elsewhere in the world. I think it is important that we do that, because our responsibilities do in fact have a whole range.

I expected to hear some crowing from the White House about now, about the crown jewel of their foreign policy success, which is Haiti. I have not heard much, and I have been curious about the silence.

I have not heard much in the press, either, so I just checked and I found that one of the observers who was there for the last election, for the parliamentary elections in June, was there last week and reported back to me this morning on a trip that she had there. And sorry to say that things are not going very well.

I say that for three reasons. First of all, the taxpayers of this country have got almost $3 billion invested in Haiti right now, in the Aristide government. I am sad to say that democracy is not building. It is in fact going down the drain, despite that heavy investment to try to help that nation out.

And I am also sorry to say that U.S. troops are still there and subject to harm in the civil unrest that is unyielding, and we have seen unfortunately an escalation of violence. We will hope that nobody gets hurt, and particularly not our troops.

And finally, I am particularly sorry that democracy under the Aristide administration is not working, because he was truly a democratically elected President, and if the Government cannot operate that way, that means we are going to be in for a longer haul in Haiti and things are not as well as we hoped.

That, of course, affects us in Florida. We have the refugee problem, we have many Haitians in Florida, many in my...
district, a matter of great concern. It is also sad that a friendly neighboring nation that is so close to our shore is having such a difficult time coming to grips with the development of democracy.

We will not have a full, fair election there on December 17, if the election comes off, because the legitimate opponents who would run have been intimidated. They have been threatened with being burned to death if they even register and showed up. Most of the opposition offices are closed. There is no campaigning going on.

Fear is throughout the countryside. This is not the ingredient of a democratic election. Businesses are closed. Business is worse. The economy was even worse than bad now. People just simply do not want to open their stores. They are afraid of mob violence.

The privatization effort that the government was supposed to introduce has not worked. In fact, not only has it not worked, the Prime Minister who was its champion has resigned in protest. A new Prime Minister has come in and is going to a different policy.

So the in order to stay on an economic footing, we are not working out either. Apparently the government of President Aristide is going the wrong way on that.

The most important point is stability. Mobs are driving people into refugee status, including Americans. When it gets to that state, it is time to reexamine.

PRINCIPLES FOR BUDGET BALANCING

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 2 minutes.

Mr. PALLONE. Mr. Speaker, I must say that I am very pleased today so to see that we have worked out the continuing resolution between the President and the Republican leadership in Congress, and that Federal employees are back to work. I cannot emphasize enough how pleased the Federal employees in my district are. Some of them have been calling the district office to say that.

Even more or just as important, though, is the fact that the language of this agreement essentially says not only that we will have a balanced budget, but that the priorities which I have been talking about, which President Clinton and Democratic leadership have been talking about, which are to preserve Medicare, to make sure that Medicaid is adequately funded, to make sure that this budget provides ample funding for education and also for the environment, that those are included in the language of the continuing resolution.

So I hope that with these principles that are so important to President Clinton, so important to Democrats and important, I believe, to the American people, that those principles will guide the negotiations over the larger budget agreement that must be reached over the next few weeks.

Let me tell you why I think that these principles are important. I have said it over and over again on the floor, but I am going to say it again today. When we talk about Medicare and Medicaid, the Republican budget essentially is going to cut by a significant amount of money, 270 million for Medicaid, 170 million for Medicare, in order to pay for a tax break, mostly for wealthy Americans.

What I hope is that this budget agreement will put more money back in Medicare and Medicaid, retain the entitlement status particularly for Medicaid, so that those who have low incomes are not going to lose their health insurance through the Government, will continue to be entitled to health insurance.

What we can do is reduce those tax breaks or eliminate those tax breaks that do not work. I mean, we need to make sure that these programs continue the way they have.

PUTTING OUR HOUSE IN ORDER

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from North Carolina [Mr. FUNDERBURK] is recognized during morning business for 3 minutes.

Mr. FUNDERBURK. Mr. Speaker, what if an unpopular President shut the Federal Government down and no body outside the Capitol beltway, except CBS, NBC, and the New York Times, cared one whit? Judging by what the people of eastern North Carolina told me, that's exactly what happened last week. So let me cut through the fog that engulfed the White House and its bagmen in the media and tell you what this fight is really about.

The shut down of the Federal Government was not about petty partisan politics. This fight was and is about our children and our future. It is about two competing visions of America. The first vision is Bill Clinton's America where an army of Federal bureaucrats tells us how to raise our families, spend our money, and run our businesses. The second is our America; America built on the promise of individual liberty and material progress.

The new majority was sent to Congress by Americans frightened of Government and exhausted by its ravenous demands. We were sent here to bring runaway Federal spending to a standstill. We hammered out a budget plan to balance the books, chop the arms off the Federal octopus, and let the people keep their money.

Bill Clinton's opposition to the Republican budget tells America three things:

Bill Clinton did not want a balanced budget.
12, 1995, the gentleman from West Virginia [Mr. Wise] is recognized during morning business for 2 minutes.

Mr. WISE. Mr. Speaker, we are all delighted of course that the Government is back to work and in West Virginia 17,000 Federal employees are back on the job.

I also want to thank my congressional staff, over half of whom were furloughed this period. It is not that they were nonessential. It is that they were, in the decision of the Committee on House Oversight, non-legislative. Today the mobile office is back on the road visiting one of the many counties it visits every day. The caseworkers are working, schedulers are putting together events, constituent organizers are working. We are back in business.

Americans finally are once again getting the Government that they are paying for. That is what was lost in this furlough. Americans were not getting the Government that they are paying taxes for.

I believe there are two reasons that we reached this situation today, this compromise. First of all, the public was telling everyone, Republicans, Democrats, the White House, it is time to get back to work. Do not hold us as hostages to this budget battle that is taking place.

The second reason is, I believe, not reported as much, is the decision on Saturday by Democrats and then joined by a lot of Republicans to say, no, we are not going to shut this House down, this House should not adjourn even for 1 day while there are Federal employees out on the street.

So let us get to the good news. The good news is that this side-bar, this preliminary fight on this boxing card, is behind us at least for 3 weeks. Now we can get down to the real issues; the real kind of budget we have in this country and what kind of priorities is Medicare and Medicaid; what kind of tax cuts are they going to be and are they going to go to the wealthiest or to the low- and middle-income; what kind of education programs are we going to have; how you are going to actually balance this budget over 7 years.

The good news is hopefully that this will not be affected by temporary events, the fact that the Speaker is dissatisfied with the seat that he gets on an airplane or somebody's attack on the job. The Speaker's announced policy of May 12, 1995, the gentleman from New Mexico [Mr. Schiess] is recognized during morning business for 2 minutes.

Mr. SCHIFF. Mr. Speaker, both sides did compromise to bring us to the point where we are today. The Republican leadership gave up some original provisions that were not related to the budget in the originally proposed continuing resolution.

This weekend the President agreed to a 7-year goal for achieving a balanced budget, compared with using the Congressional Budget Office economic forecasts, although with consultation with other agencies. Now we have to head to the task of passing a long term 7-year balanced budget.

Very shortly, the Republican majority in Congress will pass such a budget. Seven years, scored by the Congressional Budget Office. I do not agree with every single decision in that budget, but it is a budget that meets the requirements of the framework that has been agreed upon.

Mr. Speaker, I respectfully suggest it is now time for the President of the United States to submit a new budget to Congress, a budget that is also within the framework that we have agreed upon, a budget where the President proposes a balanced budget in 7 years, rated by the Congressional Budget Office.

I understand that the President of the United States has some very strong feelings about budget priorities. This is not only his prerogative, I think it is his responsibility in his office.

However, how do we know what his priorities are, how do we negotiate differences between the two, unless we have a budget from this administration that lays out those priorities so that we can compare the two budgets, the congressional budget and the administration's budget, on a side-by-side basis? If the President proposes, for example, that spending be raised in one category, how do we pay for that increase in spending unless we can see where the President has proposed reducing spending elsewhere?

Mr. Speaker, so the American people can compare the priorities, so that the Congress can negotiate with the President to reach a 7-year balanced budget, we need the President and the administration now to send us their version of a balanced budget in 7 years.

BUDGETARY PRIORITIES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. Schroeder] is recognized during morning business for 2 minutes.

Mrs. SCHROEDER. Mr. Speaker, I must say how proud I was to be a Democrat this weekend, because this weekend the Democratic party and this House stood up in the grand tradition of Roosevelt and Truman for work, for work.

We insisted that this body keep working as we ran out of "no" cards, when the other side finally decided we should not adjourn, that we should go back to work, that we made an agreement to get Federal workers back to work, to get the President to agree to a balanced budget, to get agreements on Medicare, Medicaid, Social Security. That happened, and how proudly I was of the solidarity on our side of the aisle as they chanted "work, work, work," to the other side to get all of the petty nonsense of the last week behind us.

That is now behind us. And now for the next 3 weeks this body must sit down with the American people and we must all talk about what our priorities really are.

Today we are going to see the first priority category. We see the defense bill going to the President. And after all of this that you have heard about balanced budgets, they are going to put a defense bill on the President's budget that is $7 billion over what the Joint Chiefs of Staff asked for. That was never done, even during the cold war. So we will be spending more than the whole rest of the planet combined on defense.

If you think this year is expensive, wait until you see the rest that is coming in behind it for the next 7 years. This is just the teeny little Ritz cracker hors d'oeuvre, for the banquet that I think we will be ordering if we cannot over-ride the President's veto of that bill.

These are the kind of priorities we are going to talk about as we figure out what we do in this next 7 years. These are the priorities that are taking us into the 21st century. This is going to be a historic 3-week debate. Everyone in America should roll up their shirt sleeves and join it. It is our country and it is our future.

PRESIDENTIAL PROMISES ON BALANCING THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. Stearns] is recognized during morning business for 3 minutes.

Mr. STEARNS. Mr. Speaker, I am certainly glad the President finally agreed to balance the budget in 7 years. It really should not have been quite as difficult as it turned out to be, because really when you go back and look at what the President said in his State of the Union Address in 1993, and what he said when he ran for the Presidency in 1992, and when you put them all together, it would not have been possible for him to continue to say he was not for a balanced budget in 7 years.

Let me quote what the President said in 1993 in the State of the Union Message.

My budget plan will use independent Congressional Budget Office numbers. I did this so no one could say I was estimating my way out of this difficulty. I did this so no one could say I was estimating my way out of this difficulty. I did this so no one could say I was estimating my way out of this difficulty.

Now we are going to see the President keep his promises and the American people are going to see that there was a 7-year task.
That is our President, 1993, using CBO numbers.

In 1992, the President, while on the “Larry King Show,” stated emphatically that his first piece of legislation would be a balanced budget in 5 years. Then a few months later last week, the President was saying, “CBO numbers are unacceptable to us because it commits us to accepting Republican cuts.”

Well, now I am glad the President finally is losing some of his tax increases. And so now Mr. Speaker, is that the debate we had on that issue is going to be the same debate we will have on Medicare.

The American people should know that the President, while he accuses us of hurting Medicare recipients, is again not remembering what he proposed with his ill-fated Health Security Act of 1993. The numbers speak for themselves. Let’s compare his plan of 1993 with our plan today.

Under our plan, we would allow the Medicare Program to grow at the rate of about 6 percent after 1999. President Clinton, who claims Medicare is one of his chief concerns and does not want to see it the elderly unfairly proposed in 1993 that his program would grow at less, 5 percent a year. There were 130 colleagues out there that sponsored his bill back then.

Now that was reported today in the Investor’s Business Daily, Mr. Speaker, I would like to include this complete article as a part of this official RECORD. [From the Investor’s Business Daily, Nov. 20, 1995]

HOW RADICAL IS THE GOP BUDGET? (By J ohn Merline)

If you listen to the rhetoric from both the political parties, it appears the GOP wants a revolution.

From the Clinton camp, words like “radical,” “unprecedented,” “terrorist,” and so on pepper comments about the Republican’s seven-year balanced budget plan.

“America can balance the budget without increasing taxes and without cutting Medicare, Medicaid, education or the environment—and that is what we must do,” President Clinton said last week.

The GOP itself likes to characterize its budget plan as revolutionary. House Speaker Newt Gingrich, R-Ga., has called the bill an “heroic fiscal achievement.”

But how radical is it?

Put in context, the seven-year plan is a relatively modest one. And, many of the specific reforms have been pitched by Clinton himself in the past.

“It is in both parties’ interest to exaggerate the changes proposed,” said former Congressional Budget Office head Robert Reischauer.

He did say, however, that the GOP is offering fundamental changes in federal entitlement programs.

Here are the basics:

In 2002—the year the budget is supposed to be balanced—federal spending will be $267 billion less than today’s budget. That budget will consume 19% of the economy in 2002, down from 22% today.

Revenues climb $449 billion between the first and last year of the seven-year plan. In 2002, taxes will eat up the same share of GDP—19%—as they do today.

Over the course of seven years, the GOP wants to cut spending a total of $952 billion, according to an analysis of the plan by the Congressional Budget Office. That’s “cut” in the Washington pejorative meaning a reduction in the planned spending increase.

Most of those cuts come in the last two years of the budget plan. For the first five years of the next seven years, the cuts add up to $432 billion. In the last two years they total $520 billion.

That’s raised eyebrows among some fiscal hawks.

“The Republican budget pushes off most of the pain of cutting spending into the next century,” said Stephen Moore, director of fiscal policy studies at the Washington-based Cato Institute.

Keep in mind that there will be two presidential elections before those final two years’ worth of cuts kick in. Under the GOP plan, the federal government will spend a total $12 trillion dollars by 2002.

That’s a mere 8.6% less than what would have been spent without the Republican cuts. And, if you take out interest savings, program cuts trim only 7% off total spending.

Fiscal conservatives complain that the GOP failed to eliminate enough programs. While many saw their funding levels clipped, too many tax-exemptable programs remain on the books, they say.

The Appalachian Regional Commission, the National Endowments for the Arts and Humanities, and the Economic Development Administration have long been on conservative hit lists. All get funded in the GOP bill.

More estimates that of the 300 programs slated to get the ax in the original House budget proposal, all but about 50 will live to see another day.

The tax cuts total $245 billion over the next seven years. The total amount of gross domestic product expected over those seven years is more than $500 trillion. So the tax cuts equal to 0.4% of the total economy. Those cuts do little to offset the two tax hikes imposed on the economy by Presidents Bush and Clinton. Clinton’s $240 billion in hikes makes a misleading comparison—that figure counts only the five-year cost of the levy. That’s because in previous years, budget plans were only made over five-year time horizons.

But the GOP plan is for seven years. So all their numbers are larger.

Clinton has offered a tax-cut plan in many ways similar to the Republican plan. For example, his own 1996 budget plan has a $500 credit for each child under age 13 for taxpayers with incomes up to $60,000.

Clinton’s credit is refundable, meaning that people with little or no income taxes would get a check from the government. The GOP’s $500 per-child credit is not. And, Republicans propose that families with higher incomes get the credit.

He also wants to expand individual retirement accounts, also included in the GOP plan.

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| Clinton has suggested that he could support a cut in the capital gains tax. His 1993 bill included a cut in gains taxes for investment, but added up to $435 billion.
| The GOP would cut the gains tax for all investment.
| The Republicans’ seven-year deal is less bold than than plans put forward by lawmakers and presidents in the past.
| Since 1969, presidents have introduced 13 budgets that they said at the time, would produce a surplus for the next five years.
| The so-called Gramm-Rudman-Hollings Act, passed in 1985, was designed to balance
| the budget by 1991. The revised law moved the target back to 1993.
| President Bush’s first budget would have turned a $163 billion deficit in 1989 to a $3 billion surplus by 1994.
| The GOP now wants to take seven years to move from a deficit of $178 billion in 1996 to a surplus of $4 billion.
| If you listen to the rhetoric from both political camps, it appears the GOP wants a major sticking point point with Clinton, who says they will severely harm seniors and the poor.
| But the changes proposed by Republicans are nearly identical to those offered by Clinton two years ago as part of his ill-fated Health Security Act.
| Medicare: In the first five years of Clinton’s Medicare plan, spending would be balanced—federal spending will be $267 billion less than today’s budget. That budget will consume 19% of the economy in 2002, down from 22% today.
| The Republicans’ Medicare plan, spending would get trimmed by $124 billion. The GOP proposes cuts of $135 billion in the first five years.
| Medicare cuts would get even harsher in the out years under Clinton’s plan. He wanted Medicare to grow at less than 5% a year after 1999. The GOP wants to leave the growth rate at about 6.5%.
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Medicare cuts would get even harsher in the out years under Clinton’s plan. He wanted Medicare to grow at less than 5% a year after 1999. The GOP wants to leave the growth rate at about 6.5%.

Like the Republicans’ plan, Clinton got most of his savings—70%—from cuts in payments to providers serving Medicare patients.

Clinton also wanted to raise premiums for Medicare’s Part B program to cover 25% of the cost of that insurance plan. The GOP set it at 31.5% of cost.

And, Clinton wanted to means-test the premiums, so high-income seniors would pick up 10% to 50% of Part B costs. Republicans want rich seniors to pay even more.

Clinton also proposed new private-sector options similar to Republicans’ “Medicare Plus” reform.

A summary of the Health Security Act released by the White House in September 1993 said its plan would offer “beneficiaries greater choice of managed-care options.” And, like the GOP bill, Clinton would let new retirees keep their old company-provided health plans.

The only difference between Clinton’s and the Republican’s reforms on this score is that Clinton wants 50% of seniors one extra choice: the option to select a medical savings account.

A favorite among conservatives, MSAs let seniors opt out of their catastrophic insurance policy. Premium savings are placed in a savings account, which seniors can draw on to pay up-front medical costs. Unspent funds in the account at the end of the year can be rolled over or withdrawn.

Conservative Democrats tried to strip the MSA option out of Medicare reform using a parliamentary procedure.

But Democratic lawmakers who have in the past opposed similar proposals.

In 1990, Minority Leader Richard Gephardt, D-Mo., co-authored a bill that gave seniors the option of remaining with the present Medicare system or choosing to receive benefits of plans being offered by the competitive system.

Both George Bush and Clinton say that they object to the GOP’s Medicare plan because it’s not part of comprehensive health care reform.

Medicaid: In his Health Security Act, Clinton wanted to strip $114 billion from Medicaid over five years. The GOP’s five-year cuts total only $72 billion.

Clinton’s health plan, Medicaid would have effectively been abolished, replaced with fixed payments to private health
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plans. The poor would sign up with one of these plans to get health benefits.

The GOP proposal would block grant Medicaid payments to state governments, which could then set up their own delivery systems.

The Clinton administration has also made a fuss over changes to Medicaid's long-term care program; the GOP plan to overhaul federal nursing home standards, replacing detailed standards with broad goals to be enforced at the state level.

But as governor of Arkansas, Clinton had proposed similar changes. In fact, in 1989, Clinton joined 47 other governors to urge an end to federal "micromanagement" of nursing homes.

Clinton complained that restricting eligibility for long-term care would throw 300,000 old folks onto the streets. Of course, he had already tightened eligibility as part of his 1993 budget.

The goal then: "Restrict further the diverting of property to qualify for Medicaid," according to the administration's 1993 budget blueprint.

Mr. STEARNS. Mr. Speaker, what we have today is the President agreeing with us on the 7-year balanced budget, using CBO number. I think eventually when we look at the difference between his Medicare Program and Medicare and Medicaid and all the other programs, he really should accept the balanced budget of 1995.

STAND ON THE SIDE OF OPPORTUNITY FOR ALL

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized during morning business for 2 minutes.

MS. JACKSON-LEE. Mr. Speaker, in World War II, my grandmother sent three of her sons off to World War. My father, the youngest one, remained at home, most of whom did not look like my father. And so he was relieved of his job on the basis of the color of his skin.

Listening to that story and watching him work all those years in jobs that did not compare to his capabilities, I promised myself that I would always stand on the side of opportunity for all men and women, no matter what their race, their religion, or their ethnic background.

So when we came upon this crisis here in this country, shutting down the Government not just hurting Federal workers but for hurting Americans, 800,000 that had faces and lives and families, I promised that I would not leave this House floor, never would I leave it because I was going to stand on the side of opportunity for Americans.

I am glad to be a freshman who came here on the basis of reform and change and not to simply talk about partisan politics and discuss who is a Republican and who is a Democrat, but simply who stands for those who need an opportunity.

I am very proud that the Democrats started out early in the week and said we need to come together, we need to understand that this battle of the budget is about the essence of 10 years, it is about humanity and people. It is about understanding Medicare and Medicaid, it is about my grandmother, who died before she was able to fully accept the privileges of having worked all her life and have good health care.

So we stayed here. My freshman Democratic class argued on the House floor Friday night that we should not leave until this problem was resolved. And we did not leave here Saturday or Sunday because we knew there was an opportunity for compromise and reconciliation, not for the scorekeepers but for the American people.

And so proudly as we stayed here Saturday, when the vote showed 362 to 32 voted to stay, but because, maybe, the Speaker had to get off the back of the plane, rather than respect the will of the House and stay in session. The Republicans were instructed to leave in recognition of the people who stayed here to compromise on a document that has captured the real spirit of what Americans want.

We have got a good CR. We have got a continuing resolution, but we have got one that we have got one that provides for Medicare and education and agriculture and national defense and veterans and the environment.

We have a continuing resolution [CR] that promises a balanced budget 7 years which I will vote for. However this CR also has the opportunity now, through the President's and Democratic negotiations of listing priorities like education, Medicare, Medicaid, the environment among others which should be protected by which the budget process is to be guided.

And so we can craft a new balanced budget with the right priorities. Let us continue to provide opportunities for Americans.

SENIOR CITIZENS' RIGHT TO WORK ACT OF 1995

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Kentucky [Mr. BUNNING] is recognized during morning business for 3 minutes.

Mr. BUNNING. Mr. Speaker, in Kentucky, Mr. Speaker, I rise this afternoon with a very simple message for the senior citizens of America. To the senior citizens of America I say, you have not been forgotten by this Congress.

Republicans in this Congress have not forgotten the promise that we made to you to raise the unfair Social Security earnings limit imposed on those who want to remain productive after age 65.

Later today I will introduce the Senior Citizens' Right to Work Act of 1995. My bill will raise the earnings limit from the current $11,280 to $30,000 a year by the year 2002. As chairman of the Social Security Subcommittee I want hard-working seniors to know that we will keep our promise. This time, we will raise the earnings limit.

First, immediately after Thanksgiving my subcommittee will take action raising the earnings limit, the majority leader himself has promised that the House will act on this legislation just as soon as the committee has finished its work.

My bill will fully preserve the financial integrity of the Social Security trust fund. That is important to tomorrow's retirees—our children and grandchildren. We must make sure that Social Security will be there for them as well.

And, with the help of the gentleman from Illinois [Mr. HASTERT], who has worked so hard on this issue, there is no question in my mind that it will sail through the House.

And I have the word of the champion of this legislation, the distinguished Senator from Arizona, that it will enjoy the same speedy action in the Senate.

Finally, in "Putting People First," the President also pledged his support to raising the earnings limit.

To my colleagues on both sides of the aisle I say, Christmas is coming. Let us give America's seniors something they want and need.

Let us raise the unfair Social Security earnings limit and give hard-working seniors the best Christmas present of all. I urge all of my colleagues to support this bill, and if you would like to cosponsor this legislation—call my office at Social Security subcommittee.

FACES BEHIND THE NUMBERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. LEVIN] is recognized during morning business for 2 minutes.

Mr. LEVIN. Mr. Speaker, there are many key lessons of the last week. A key one is that we must have a balanced budget. Americans also care deeply about how it is done. They do want us to focus on the overall budget numbers.

They also want us to look at the faces behind those numbers, at the faces of 70 percent of Michigan seniors with annual incomes less than $15,000 who would be hurt by doubling Medicare premiums as proposed by the majority; the faces of seniors who would lose quality care and choice of provider if hospital reimbursements were so severely reduced as proposed; and those with private insurance to whom these costs would be shifted; at the faces of 8 million working people whose taxes would be raised by the
present proposal to cut the earned income tax credit by $32 billion, those working people who have three or more kids, those with a small amount of Social Security payments or who are childless and earn less than $9,750 a year; the $300,000 hard working families with incomes under $29,000 who have a seriously handicapped child and would see their SSI benefits reduced by 25 percent; at the faces of 119,000 students in Michigan alone who might see the cost of education go up because of cuts in student loans.

It is not just the public that is concerned about the faces behind the numbers. More and more mainstream economists share this concern, as evidenced in the New York Times of yesterday.

Since coming to Congress, I voted for every major deficit reduction package signed into law by both Republican and Democratic Presidents. It is interesting that so many of those who now say they are dead set against balanced budget, were champions of the policies in the 1980's that were a substantial cause of raising the national debt by four times.

It is time to finish the job of balancing the budget and rightsizing Government. We must stop mortgaging the future, but we will get to the zero in the long run if we ignore the faces behind the numbers in the short run.

BACK TO WORK ON REPUBLICAN TERMS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. WELLER] is recognized during morning business for 3 minutes.

Mr. WELLER. Mr. Speaker, today's headline in Washington Times, a major national newspaper, really says it all. It is back to work on Republican terms. Clinton accepts 7-year formula. That says a lot, ladies and gentlemen. The President has now made a commitment to the American taxpayer to balance the budget and to balance it over 7 years, using honest economic figures and honest numbers. Now that is a big concession on the President's part, and I want to thank the President.

I also want to thank the constituents, the hundreds of constituents that have called my office over the last few days, and in fact their calls were 9 to 1 in favor of the Republican plan to balance the budget over 7 years.

I also want to thank the 48 conservative and moderate Democrats who backed the 7-year timetable that Republicans have called for. It is reasonable, and the President now concurs, 7 years, and no longer.

We Republicans have laid on the table a reasonable commonsense plan which respects the deficit over 7 years. Our plan eliminates the deficit over 7 years using honest numbers. We save Medicare from bankruptcy, while increasing spending on Medicare by $355 billion over this period of 7 years. That is a 50-percent increase over what we currently spend.

We reform welfare to emphasize work and family and responsibility. And yes, we provide tax relief for working families. What that means for my constituents, Illinois taxpayers, is that the President has agreed to spend $1 trillion less than he originally wanted to spend, and that means that America's children, particularly our Nation's children, will get to see a better economic future.

Now it is time to see the specifics of the President's plan. What is the President's plan to balance the budget over the next 7 years? Of course we do not want to see any smoke and mirrors. We want to see honest numbers. We want to see the details.

Two years ago, the President and the Democrats in this body, my friends on the other side of the aisle, left, gave us the biggest tax hike in the history of our country. What it meant to the people of the State of Illinois was a $1,100 per capita tax hike in its first year alone, $1,100 for every man, woman, and child in the first year alone.

The Democrats gave us higher taxes on Social Security benefits on my seniors and higher taxes on the motor fuel that my working people use to go to work. That was their proposal to eliminate the deficit.

Now we Republicans stood firm and every Republican opposed the Democratic tax hikes in 1993, and we continue to oppose Democratic tax hikes and want and insist on tax relief for working families.

Republicans have laid on the table a plan to balance the budget over the next 7 years, contains no tax increases. In fact, it provides tax relief for working families. We reform welfare and we save Medicare.

And the bottom line is by balancing the budget economists tell us that it is good for families because interest rates are coming down, mortgage rates, lower car loans, lower student loans. Frankly, that is what we are doing for the American people, is giving them a better future. Mr. President, it is time to show us your plan.

GOVERNMENT OPENS AGAIN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning business for 2 minutes.

Mrs. CLAYTON. Mr. Speaker, the Government is back in business. That is good news.

It is for that reason, Mr. Speaker, that I want to applaud the President and the Congress—House and Senate, Democrats and Republicans, who made this moment possible.

Our leaders worked throughout the weekend, pressing forward toward agreement, making sure that we could avoid a second week of—half the Government—off the job.

It was a proud and happy moment for me—last night, as a Member of Congress—when the House followed the Senate in passing the joint resolution which ended the impasse.

We have agreed to work toward a balanced budget in 7 years. That is good news.

I voted for the Democratic version of a 7-year balanced budget plan, and I believe, working together, we can achieve that important goal.

And, most importantly—in the days and weeks ahead—we will try to forge a budget that not only balances our money, but one that balances our priorities as well. A balanced budget that considers our seniors, our children, farmers, and our environment. That is good news.

Let us decide if we need a $245 billion dollar tax cut. But, if we cut taxes, let us cut taxes fairly.

Let us make sure that any tax break we may enact, provides benefit to average Americans—those who work hard each day to make ends meet.

And, most importantly, if we develop a tax cut program, let us make sure that we do so without putting in jeopardy essential social programs.

I believe these goals are part of the agreement that was reached over the weekend. That is good news.

Mr. Speaker, with this agreement, we have time. But, we do not have much time.

As the budget of the United States has developed, we have witnessed the true genius of our system—a system of checks and balances. Some power is given to the Congress and other powers are reserved for the President.

But, in the end, this system only works when it allows the Government and its employees, to work. The Government is back in business.

The Statute of Liberty once again welcomes those "yearning to breathe free." And, the spirit of this Nation—the American people—have won a great victory. The hope I hope we will now do what is best for the people, rather than what is best for our party or our politics. That is what ended the impasse.
That is what put people back to work. That is good news.

**BALANCING THE BUDGET**

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. SCARBOROUGH] is recognized during morning business for 3 minutes.

Mr. SCARBOROUGH. Mr. Speaker, I would like to follow up on what the gentlewoman from North Carolina said. It is cut off. We can work together. There are 48 Democrats who last week said that it was important that we balance the budget, and that we balance the budget using true and accurate numbers. I mean, let us face it, in Washington, DC, no one side has the high ground on smoke and mirrors.

We saw in the early 1980's that it was the Republicans and a Republican administration that played with rosy scenarios and numbers. We have seen it throughout the 1980's. We have also seen it in the 1990's that we have a Democratic administration that is awfully nervous about using real numbers. But the fact of the matter is, we can work together.

Unfortunately, this past weekend I heard some people talking about how the Democratic Party worked hard through the weekend in the grand tradition of FDR and Truman. I will tell you what we had, was a lot of demagoguery on the floor. I heard Newt GINGRICH compared to Bull Conner in Birmingham, AL. And of course those of you who know your history and remember, Bull Conner was the police chief who sicced dogs on minorities in Birmingham to eat them alive and turned water hoses on minorities to enforce segregation. That is not helpful.

It is not helpful when extremists on the other side of the aisle refer to Republicans as Nazis for wanting to balance the budget. We have to get beyond that. We have got to get beyond the demagoguery on Medicare.

The Washington Post had several articles and editorials this past week calling the liberals' hand on what I, and I hate to say it, but just on, if not lying, on blatantly misrepresenting Republicans' plans on Medicare.

This past weekend, the Washington Post wrote, though many of President Clinton's advisors think the GOP's premium proposal on Medicare is sensible and it differs little from his own plan, the President fired sound bites from the Oval Office daily, taking the low road in ways that only Washington punks could recite as standing tall.

As polls showed, it worked. The Washington Post on November 15 wrote that the Democrats have been prospecting harder for votes among the elderly and against the Republican proposal than they have for saving the money needed to bring the deficit down. Of course last week's Washington Post editorial wrote that the Democrats, led by the President, chose instead to project themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that is where the votes are and it is the way around the Republican proposals generally.

The President was still doing it this week. A Republican proposal to increase Medicare premiums was one of the reasons he alleged to veto and shut down the Government. Never mind that he himself and his own budget would countenance this similar increase.

We have said it before and it gets more serious now. If the Democrats play the Medicare card to win, they will have set back for years the worst of political reasons the very cause for rational government on whose behalf they profess to be behaving.

So let us get real, let us talk reality, talk real numbers. The fact of the matter is we are protecting, preserving Medicare for future generations, and more importantly, we have done what this Government has not done in a generation. We put forward a plan to balance the budget. And I hope more Democrats come on board.

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**ON THE WAY TO A BALANCED BUDGET**

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. Gibbons] is recognized during morning business for 2 minutes.

Mr. GIBBONS. Mr. Speaker, I rejoice with all Americans that Government employees are back at work today, serving the American public. That is the way it should have been all along.

There was no need for the crisis we just went through. Apparently one person's ill-disposition got us in that jam.

Mr. Speaker, we are on the way to a balanced budget. We have been on that way for 3 years; 3 years ago, the annual fiscal deficit stood at about $300 billion. It is now down to about $160 billion annual fiscal deficit. It is coming down.

Every economist that studies this question will tell you how quickly we reach a balanced budget depends upon the strength of the American economy: How well does American business do, how well do American workers do, and how well the Government do because they all do well? That is what is going to bring the budget into balance. There are some problems that need to be fixed. They can be fixed and they will be fixed.

I notice that some of my Republican colleagues got up here and condemned the tax increase that the President pushed through 2 years ago. Let me tell you, ladies and gentlemen, the bill that came to the floor from the Republican Party does not repeal a single one of those taxes that they have condemned so heartily. They control this place. They could repeal those taxes if they wanted to, but they have not seen fit to do it. It is still the law of the land. So that is just crybaby time.

Now, the question before us all is not when the budget is balanced. We all want to do it as soon as possible. The question is how to get it done and who is going to pay for it. Keep your eyes on that, American public. We do not want children, poor people, working poor people, sick people, or old people to have to bear the burden. Take the rich tax cut for the very wealthy and the budget is easily balanced.

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**GOVERNMENT OPENS AGAIN**

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Mississippi [Mr. WICKER] is recognized during morning business for 5 minutes.

Mr. WICKER. Mr. Speaker, this is the Thanksgiving season, and certainly we have got to be thankful for today, particularly. We can be thankful that 800,000 furloughed Federal employees are returning to work. We can be thankful that there is a glimmer of bipartisan hope here in Congress.

We can be thankful that today this House will vote on a bipartisan agreement, not only to end the Federal shutdown, but to balance the budget in 7 years with honest numbers. No back doors and no gimmicks.

I believe this balanced budget will be the greatest legacy of this Congress. This Congress is committed to working with the administration to do what Congresses should do every year, and that is balance the Federal budget.

Now, the next step on the road to fiscal sanity is just as important, and that is agreeing to a Balanced Budget Act of 1995. We need to balance the budget by agreeing to spend an additional $3 trillion over the next 7 years, rather than the projected $4 trillion we are on course to spend.

As my friend, the gentleman from Ohio, Chairman Kasich, has said, the balanced budget is not about cuts. It is about whether we can forgo that fourth trillion.

I must admit, Mr. Speaker, that I am a bit confused today about the President's statement last night, as compared to the specific language of the continuing resolution which he says he will sign.

Now, the continuing resolution, which the President has said he will sign tonight, agrees to protect future generations and to protect Medicare, education, Medicaid, agriculture, national defense, and the environment. But it says specifically, and I quote, "The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget, not later than the fiscal year 2002, as estimated by the Congressional Budget Office," a very flat commitment to balancing the budget in 7 years, according to CBO scoring.

However, in his statement last night, the President said, and I quote, "And
you know I have expressed strong doubts that the budget can be balanced in 7 years, if we use the current Republican congressional budget assumptions. But I am nevertheless committed to working in the coming weeks to see if we can reach agreement on balancing the budget. The key is that nothing will be agreed to unless all elements are agreed to." Unquote.

I must confess that I am concerned about that statement. The agreement, the specific language that you have agreed to, sign even before he signs it. The majority of this House of Representatives has shown that we can balance the budget within 7 years using CBO scoring. Coalition Democrats have come forward and given their version of the balanced budget, within 7 years, using CBO scoring.

I now call on my friends from the other side of the aisle to get with the President and to make sure that he comes forward with an honest budget using CBO scoring, and to tell the American people how he proposes to balance the budget within 7 years using the honest CBO figures that he has agreed to.

I should so far has had it both ways. He has had the best of both worlds. On one hand, he has been for a balanced budget, and on the other hand, he has not wanted to make the difficult decision to get us there. The American people have told us that our days of having our cake and eating it too are over. I look forward to seeing where the President would reduce the growth of Government spending. Then we can reach a balanced budget in 7 years, show the American people that a promise made is a promise kept, and give our children the future they deserve.

THANKSGIVING TRUCE

The SPEAKER pro tempore. Under the Speaker's announced policy on May 12, 1995, the gentleman from Texas [Mr. DOGGETT] is recognized during morning business for 2 minutes.

Mr. DOGGETT. Mr. Speaker, surely all America can give thanks this Thanksgiving for a Thanksgiving truce in a truly senseless war. Our Republican colleagues in the Senate as well as the President and his staff, deserve our praise for their hard work this weekend to try to reach a Federal budget eventually that will be balanced not only in terms of numbers, but in terms of principles, the American people with true fairness.

The only way that this agreement was implemented and 800,000 Federal workers returned to work today is because our Democratic colleagues worked together here in the House. I feel good about that.

Because of our willingness to work this weekend instead of to quit in the midst of a national crisis, we were here on the floor last night, ready to implement this agreement. Had the adjournment motion that was forced on us on Saturday been approved, we would have had another day of delay for the American people, delay that would have cost our Federal workers $50 million for our Federal workers to be idle again.

For, you see, from the very beginning, those who forced this crisis intended to pay people for not working the American people. Eight hundred thousand people were paid for not doing any work during the course of this crisis. Hopefully, those in this House who were so very determined and who spoke with such strident comments to impose their will on America, that they were willing to pay these 800,000 people not to work all of last week, those folks heard the message of the American people that Americans have been saying in one poll after another about the way this whole crisis was handled.

To be honest, the cost of that message was fairly dear to the American people. I think it can be estimated at well over a billion dollars—$100 to $150 million a day. Hopefully the message is the advent of the $60 billion and $70 billion on budget priorities, whether we want to give a tax break to the most prosperous Americans or protect our people on Medicare and who rely on educational assistance to have a better tomorrow.

PRESERVING NATIONAL UNITY

The SPEAKER pro tempore. Under the Speaker's announced policy on May 12, 1995, the gentleman from Wisconsin [Mr. ROTH] is recognized during morning business for 3 minutes.

Mr. ROTH. Mr. Speaker, if ever we needed to be reminded of the need for America to preserve our precious national unity, recent events around the world have provided us with helpful reminders.

The most obvious was the wake-up call America received earlier this month, when our great neighbor Canada narrowly avoided splitting in two over linguistic and cultural divisions. Canada may yet divorce, and a nation that was founded on many of the same principles America was, might actually cease to exist. Canada's continuing battles with separation should be the red warning light that causes us to stop and think: Could Our Nation fragment like Canada almost did?

The answer is a disconcerting but resounding yes. Columnist Charles Krauthammer in a recent essay notes that "Separatism is the single greatest political fact of the post-cold-war world." Today, it is increasingly difficult for diverse, multicultural nations to keep from splitting apart. And, as Krauthammer rightly remarks, the United States is no longer immune to the centrifugal forces of separatism.

It is a seldom discussed fact in the debate over America's growing diversity that countries the world over are dealing with similar problems. We are all familiar with the cases that have captured the headlines—Quebec, the end of Yugoslavia, and the fragmentation of the old U.S.S.R.—but this has truly become a global concern. "I met with the French Minister of Culture, who had just introduced legislation to preserve French in increasingly diverse France. I also met other Western European and South American leaders who were preparing to establish national languages in their respective countries.

It surprised me that so many nations around the world were dealing with many of the same concerns I have had about the disuniting of America. I shouldn't have been surprised; while our Nation is the most diverse in the history of the world, it is the hallmark of the late 20th century that almost every country is being enriched and impacted by immigration. With the global village of communication and culture, the world has begun a mass migration of peoples that has no historical precedent. In a century, most—if not all—of the world's countries will be as diverse as Canada, or diverse nations will no longer exist.

The reason is because most nations are not addressing the fundamental challenge of the 21st century: how to defuse the time bomb of rising nationalism and tribalism in a post-cold-war world market by mass immigration.

The countries, whose representatives I met with in Paris, have begun to attack this problem. They are on their way to establishing national languages in their countries. They are not alone. 87 other countries around the world who have declared official languages, 63 of which have chosen English as their national language. One of those countries is India, who recognized some time ago that in a nation where 14 different languages and dialects are spoken, one common language is needed to unite their people. They chose English, because of their colonial relationship with Great Britain, but also because it is the international language of communication and control, and the Internet, among others. Ironically, India has recognized the need for making English their official language before the United States has.

I hope the events around the world and the emerging global realities of the 21st century will convince us in this country that we need to act to preserve our common language. We have seen the future of America if we don't; I pray we don't have to actually live it. Congress should start have the common sense that legislators the world over have demonstrated in dealing with the major challenge of the
FRAMEWORK FOR NEGOTIATION

The SPEAKER pro tempore. Under the Speaker’s announced policy of May 12, 1995, the gentleman from California [Mr. MILLER] is recognized during morning business for 2 minutes.

Mr. MILLER of California. Mr. Speaker, I yield the floor to the House. Now that the Republican manufacture of Government shutdown is over, as America’s families gather for Thanksgiv- ing, they should thank our President of the United States for hanging tough.

Because he did, no longer under this agreement will Medicare be allowed to be used as a piggy bank to pay for the tax cuts for the wealthy. Because he did, we now have an agreement that states that this balanced budget must protect future generations, protect Medicare solvency, reform welfare, and provide adequate funding for Medicaid, none of which was accomplished under the Republican language.

It also provides that we protect future generations by adequately funding the environmental programs of this Nation. Again, it was not required under the Republican language.

Most importantly, the new language that the President’s hanging tough al- lowed us to achieve last night was that it will now help working families as op- posed to the original Republican plan of taxing working families.

We have now the framework for nego- tiation among the administration and the Congress, and hopefully among the American people. But the direction that this country will take, about our future, about future generations, and the kinds of decisions that we can make to ensure that we continue a pro- gressive and civil society, or we can turn our budget cuts into a way that are so drastic that they reach into the inside of almost every American family and pit a younger generation seeking education against an older generation that may need long-term health care and protec- tion from rising health care costs.

The framework has now been set by the President of the United States, the negotiations begin next Monday, and I believe now we have an opportunity for truly a national conversation about the priorities of this Nation.

OUTLINE FOR BUDGET TALKS

The SPEAKER pro tempore. Under the Speaker’s announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DeLAURO] is recognized during morning business for 2 minutes.

Ms. DeLAURO. Mr. Speaker, last night’s agreement was a victory for the American people. The agreement gives us an outline for the budget talks, that truly reflects the values of the people of the United States.

For months and months and months, Democrats have been fighting to protect Medicare, education, and the envi- ronment from the budget ax. Yesterday, President Clinton stood firm for those principles and he stood up for our seniors, for our students, and for our environment.

The agreement also reaffirms the commitment of Congress and the Presi- dent to balance the budget. The ques- tion in this battle has never been, Will we balance the budget, but how will we balance the budget? Yesterday, the President ensured that we will balance the budget in a fair manner and in a way that protects health care for our seniors, educational opportunities for our children, and that protects our environment.

A balanced budget is a goal that we all share, but there is nothing balanced about cutting Medicare for seniors, increasing taxes on students, and roll- ing back environmental protections while cutting taxes for the wealthy.

Democrats believe that it is wrong to balance that budget by cutting Med- icare, education, and environmental protections, while doling out massive tax cuts to the wealthiest Americans.

That is why we are so pleased that the Republicans have agreed to protect those priorities and to put the $245 bil- lion tax cut on the bargaining table.

President Clinton has started the ball rolling on a real balanced budget, one that protects America’s priorities: Protecting Medicare, education, and our environment.

BUDGET EFFECTS ON CALIFORNIA

The SPEAKER pro tempore. Under the Speaker’s announced policy of May 12, 1995, the gentlewoman from California [Ms. Pelosi] is recognized during morning business for 2 minutes.

Ms. Pelosi. Mr. Speaker, I, too, am very pleased that we now have a frame- work within which to debate the issue of the budget. Who we tax and how we spend that money is what we will be seeing debated in the next 3 weeks.

I am very proud and pleased that President Clinton held firm in saying, yes, we want a balanced budget, we want to balance it financially, but we must balance it in terms of values as well.

I oppose the Republican proposal that is on the floor now for two rea- sons. First, because of its priorities; and second, because of the unfairness in the tax situation in it.

This morning, however, Mr. Speaker, in this morning hour is usually the time when we try to convey some in- formation to our colleagues, in addi- tion to our point of view. I want to say why I find the Republican-Gingrich proposal to be so harmful to the State of California. I point out the harm to California because that is the State I represent, but other Members must look to their own States to see the impact that this budget will have on individuals, on the State budgets, and on the economies of their own States.

I have this chart which indicates, Mr. Speaker, that in California, we will have a minimum of a $72 billion cut in funds that go to Cali- fornia, to individuals, and I will explain in what proportion.

By comparison, our State budget is around $55 billion a year. The cuts that this budget will give to California are more than, by almost a half again, the budget of California; over $36 billion in Medicare cuts, affecting 3.6 million beneficiaries; 16, almost $17 billion in Medicaid cuts.

In California, 26 percent of the chil- dren of California depend on Medi- care for their guaranteed health services. Two point three million of those children will be drastically affected, se- verely, affected by this.

I just want to say, Mr. Chairman, in closing, in addition to that, 2 million people will suffer because of the $35 billion cut in the earned income tax credits.

I urge my colleagues, look to your own States, see the severe impact that this will have on your people, on your budget, and on your economy.

CALIFORNIA’S VETERANS WILL SUFFER

The SPEAKER pro tempore. Under the Speaker’s announced policy of May 12, 1995, the gentleman from California [Mr. Filner] is recognized during morning business for 2 minutes.

Mr. Filner. Mr. Speaker, my col- leagues before me have said the issue is not the balanced budget, but who is going to pay for it.

I am here today because it is vital to inform the country about the impact of the Gingrich budget on our Nation’s veterans.

The budget bill is a three-pronged monster. Cuts to the Veterans’ Admin- istration, cuts in Medicare, and cuts in Medicaid mean our veterans will not have access to medical care when they need it most.

Let me tell you what the impact will be on California’s veterans. Twenty thousand California veterans will lose eligibility for Medicaid under the cur- rent Gingrich budget. Of those veter- ans, 12,000 are over 65 years of age, and more than 2,500 of them are in nursing homes. How would any of us serving in Congress like to be told at age 65 or older that we no longer had health care? What are these veterans going to do?

By the year 2002, California will be the home of almost a million veterans who are 65 and older. Most of them will be eligible for Medicare, and all of them will be affected by the proposed Medicare cuts.

My colleagues on the floor say that is not a cut. I will tell you that these vet- erans will know that it is a cut.

Cuts off from Medicare and from many hospitals that will be forced to close,
veterans will have to look to the VA for health care. With the cuts proposed for that system, they will also be limited in their ability to get the care they need.

When we called upon our veterans, not one of them said, "Sorry, I cannot afford to serve." When veterans asked their country to keep the promises made to them, how can we say now, "Sorry, we cannot afford it?"

I do understand how we can repay the very people who fought for us with massive cuts to the medical care they were promised.

We must be vigilant in protecting our veterans and the benefits they were promised. As a nation, Mr. Speaker, we have a moral obligation to keep the promises we made to our veterans.

DO NOT SACRIFICE THE PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Alabama [Mr. HILLARD] is recognized during morning business for 2 minutes.

Mr. HILLARD. Mr. Speaker, I came to Washington to help the American people, and not vote for anything that would hurt them.

The Republican budget would hurt the American people. For a week, the Republicans closed down the Government, sent Federal employees home, kept people from signing up for Social Security, Medicare or veterans' benefits, because they did not want to negotiate in good faith and tell the American people that a tax cut for the wealthy is not needed to balance the budget and would hurt most Americans.

The Republicans want to balance the budget on the backs of the poor, the disabled, the elderly, and children of working mothers so that they can pay for a tax cut for the rich.

I will continue to oppose the tax cuts for the rich, and I will continue to oppose the American people.

If the proposed budget does not strike the tax cut for the rich and provide fairly for the young, the elderly, the poor, and the disabled, it will be a bad budget and I cannot and will not support a bad budget.

HISTORY OF BALANCING THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Colorado [Mr. MCINNIS] is recognized during morning business for 5 minutes.

Mr. MCINNIS. Mr. Speaker, this is an opportunity to visit with all of you. Of course the last 48 hours we have had a very busy weekend. I think we have come up to a compromise, but I am a little discouraged this morning to see some of my colleagues on the floor were not to visit with all of you. Of course the last 48 hours we have had a very busy weekend. I think we have come up to a compromise, but I am a little discouraged this morning to see some of my colleagues on the floor were not to visit with all of you.

Let me tell you that all of a sudden, some of my colleagues cannot rush fast enough to embrace the words "balanced budget," so that they can say to the American people, you know, I have been for a balanced budget all this time. They do not realize that whether or not we balance the budget, the question is how we do it. That is their little wiggle room that some of these people are using.

I think it is important that we look at the history of this country.

A lot of these people that are talking to us, a lot of our colleagues that are talking that way, have served in previous Congresses. We have not had a balanced budget, and out of these Chambers in 25 years. The Federal Government has not reduced Federal spending in 40 years. Look at what this deficit is doing and the debt is doing to the American people. Where are they, Johnny-come-latelies; where have they gone? It is about time they embraced a balanced budget.

I tell you it is about time the President, who by the way said when he ran for office he would produce a balanced budget plan, when he switched it to 10 years, then he dropped to 7 years, then he went back to 8 years, then he went back to 7 years, then he was back to 10, and finally last night, finally last night, we got the President to commit to a 7-year balanced budget. Why is that so critical for the American people? What is the deficit doing to us? Take a look at what it accrues. It accrues at $30 million an hour. This country spends $30 million an hour more than it brings in. The average person in America, each person in America, not the average, excuse me, each person in America owes $180,000 on the Federal debt. For a family of four, which are more than over $60,000, almost $60,000 in the debt for a family of four.

Do you know that a child born this year, a child born this year, will owe out of their lifetime earnings, if we do not do something about this deficit, if the President does not keep his word to do it in a 7-year period of time, that child will owe $180,000 of their lifetime earnings just to pay interest on the Federal debt.

Now some of the preceding speakers have stood up here and said, take a look at the vets, take a look at Medicare, take a look at welfare, take a look at every entitlement program out there. What they are trying to convince all of us that we could reach a balanced budget without touching entitlement programs. We can. We do not have to cut entitlement programs. We do have to control their growth.

Do not let anyone stand up here in front of you and say that we are going to be able to balance the budget of this country without cutting growth on some of these Federal programs. You cannot cut the growth on every other program except entitlement programs, and even have a hope of ever balancing this deficit.

Do you know that if we went out to every Federal agency next year, every Federal agency out there, and we said to those agencies, look, you do not have to cut one penny out of your budget, you do not have to cut one penny out of your budget, but next year your budget can only grow at a rate of 1 percent, you can only grow at a rate of 1 percent on the dollar, if we could get the Federal agencies to do that, we would balance this problem, the annual deficit, in probably a 4-year period of time.

Now you are going to hear some of my colleagues say, well, where is this 7 years; where did they get 7 years? Did the Speaker just pull it out of the sky? I can remember when the Speaker explained to us why the 7 years.

You know what he said to us? I thought it made a lot of sense. He said to us, we could balance this budget this year, we could balance it in 4 years, we could balance it in 3 years. Then it would be so harsh on the American people that the hardships would overcome the benefit of the balance of the budget. Seven years is a period of time that, yes, everybody is going to have to pitch in, but it is not going to be especially painful for any particular group.

I take that back, any particular group. We are going to have some pretty basic requirements out there on some groups. For example, we have some able-bodied people in our country who draw Federal benefits because they are not working. They ought to be working. I do not have any problem with saying to those people, you know something, you can work, you are able to work, and you ought to work. I do not think it is particularly harsh on you when you do welfare reform to say, look, we are not going to let this go on forever. So I encourage all of us to work together to get this balanced budget.

RECESS

The SPEAKER pro tempore. All time has past expired.

There being no further requests for morning business, pursuant to clause 12, rule 1, the House will stand in recess until 2 p.m.

Accordingly (at 1 o'clock and 41 minutes p.m.), the House stood in recess until 2 p.m.

□ 1404

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. CUNNINGHAM] at 2 o'clock and 4 minutes p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With every morning Sun there is the reminder of a new day and with each new day there are occasions to do the works of justice. Teach us, gracious
God, to make good use of the time allotted to us so that our efforts will allow us to be the people You would have us be. Remind us specially at this Thanksgiving season of the privilege it is to be good stewards of all the riches that have been bestowed upon our Nation. Above all else may we be found faithful in our commitment to the good traditions of the land so that justice will flow down as waters and righteousness like an everflowing stream. In Your name, we pray. Amen.

THE JOURNAL

The Speaker pro tempore. The Chair has examined the Journal of the last day’s proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule 1, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The Speaker pro tempore. Will the gentleman from Alabama [Mr. Browder] come forward and lead the House in the Pledge of Allegiance.

Mr. Browder led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 32. Concurrent resolution providing for a conditional recess or adjournment of the Senate on Monday, November 20, 1995, unless adjourned, and a conditional adjournment of the House on the legislative day of Monday, November 20, 1995, or Tuesday, November 21, 1995, until, Tuesday, November 28, 1995, and

S. Con. Res. 33. Concurrent resolution expressing the thanks and good wishes of the American people to the Honorable George M. White on the occasion of his retirement as the Architect of the Capitol.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution on the legislative day of Saturday, November 18, 1995:

House Joint Resolution 123, making further continued appropriations for fiscal year 1996, and for other purposes.

SUPPORT THE TRAVEL AND TOURISM PARTNERSHIP ACT

(Mr. Roth asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Roth. Mr. Speaker, in the last few weeks, we have been trying to come up with a budget plan to ensure a successful future for America.

Every one of us in this House can debate for hours, even days, what is best for our district, our State, or for the Nation as a whole.

But what the American people really need is an opportunity to succeed. And opportunity doesn’t come in the form of a Government handout, a grant, a loan, or an endowment.

Opportunity comes in the form of jobs—good-paying jobs and the chance to put hard work to the test.

This Thanksgiving season, as you travel back to your district to spend the holidays with family and friends, take a moment to think about how many people are employed because you and thousands of other Americans are traveling.

Airlines, car rental agencies, restaurants, travel agencies, hotels, and retail stores: travel and tourism is the second largest employer in America employing more than 11 million people. That’s one of every nine Americans.

As someone hands you your plane ticket to head home for the holidays, think about what you can do for the working people of America.

Cosponsor H.R. 2579, the Travel and Tourism Partnership Act. This bill would create a public-private partnership between the travel and tourism industry and the Federal Government was the highest priority to emerge from the recent White House Conference back to your district.

With their votes, 1,700 conference delegates asked Congress to give them nothing more than the opportunity to succeed. This opportunity is not a gift or a handout, but a real chance to grow their business.

H.R. 2579 will help give the travel and tourism industry the mechanism to create thousands of new jobs—jobs that provide the economic opportunity the American people need. Jobs, in the future, will come from two major industries: travel and tourism and high technology. The Travel and Tourism Partnership Act would capitalize on this growth potential and ensure economic success for America’s future.

STOP PAYCHECKS FOR PRESIDENT AND CONGRESS DURING GOVERNMENT SHUTDOWNS

(Mr. Browder asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Browder. Mr. Speaker, today I am introducing legislation to prevent the President and Members of Congress from collecting paychecks during future Government shutdowns.

We could very well be right back into another budget crisis in 3 weeks when the proposed continuing resolution runs out.

I do not believe the President and Members of Congress should be exempt from the same hardships that others endure. If we are unable to pay Federal employees or pay veterans benefits or register new Social Security claimants then we should not be able to pay ourselves during a shutdown.

It is not right that Federal employees should be made to suffer this outrage alone. Maybe a pay freeze will make the President and Congress take the situation more seriously.

BINDING AGREEMENT IS VICTORY FOR ALL AMERICANS

(Mr. Jones asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Jones. Mr. Speaker, last night was a great victory for the American people. For once, the Washington establishment put our children’s future ahead of its own. We are firmly on a course to turn the Government away from the disgraceful spending spree it has been on for a generation.

What was so important about last night’s agreement was that the President made a solid, binding commitment to use honest scoring, while we balance the budget. I will quote from the continuing resolution: “The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office.”

This binding agreement is not only a victory for those of us on this side of the aisle—we stuck to our priorities and we will have a balanced budget. This is also a victory for all Americans. And most important the next generation.

START NOW, IN A BIPARTISAN WAY, TO BALANCE THE BUDGET

(Mr. Roemer asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Roemer. Mr. Speaker, last night’s agreement to negotiate the terms of a balanced budget was a big victory for the President. Medicare is off the table. Now we are going to negotiate 7 years toward a balanced budget.

This agreement was a big victory for the Republicans in that we are now going to a 7-year time frame, a balanced budget. How about Medicare? It was a big victory for the American people, because Democrats and Republicans now are talking in a civil manner in the same room.

How do we get to a balanced budget from here? Mr. Speaker, I submit that here is an article that appeared in my local paper over the weekend: “Coalition Budget May Be Revived.”

Mr. Speaker, let us defer tax cuts until we get a balanced budget, so we do not devastate Medicare and student loans and farm programs. Let us start the heavy lifting now to work in a bipartisan way to balance this budget.
Mr. BALLENGER. Mr. Speaker, yes-
terday the Oval Office went from the
block in the middle of the road to the
light at the end of the tunnel. Yester-
day, President Clinton agreed with the
Republican majority to balance the
budget in 7 years using honest scoring
numbers. What Republicans promised
the American people last year is one
step away from realizing a reality. This
is truly a day to celebrate.

American families are the winners in
the balanced budget debate. Families
will see lower interest rates, saving
them money on car loans, home mort-
gages, and student loans. A balanced
budget will mean a stronger economy
with more job opportunities. A bal-
canced budget will give our children
and grandchildren hope for the future,
allowing them to live the American
dream and not the American debt.

Promises made, promises kept.
That’s what the Republican majority is
all about. I’m glad President Clinton
finally came on board. Balancing the
budget is the right thing to do for our
children’s future.

SOMETHING STINKS

Mr. TRAFICANT. Mr. Speaker, some-
thing stinks. Army medic Michael New
is a twice-decorated soldier. No one
ever questioned his bravery or patriot-
ism. Nevertheless, Michael New is
being court-martialed in Germany. He
refused to wear the blue beret and
shoulder patches of the United Nations.
Michael New said, and I quote, “I will
only wear the uniform of my country.”
What is going on here? When Michael
New took an oath, he took an oath to
defend and support the Constitution of
the United States, not the charter of
the United Nations.

Mr. Speaker, something is wrong
here when we allow a decorated soldier
to face a court-martial because he will
not wear a foreign uniform. Michael
New should not be court-martialed. Mi-
ichael New should be commended and
the Congress of the United States
should be looking into the prosecution of
Michael New.

Beam me up, Mr. Speaker. Some-
thing stinks.

CONTINUING RESOLUTION

Ms. McCARTHY. Mr. Speaker, my
constituents have been telling me that
they want Congress to get on with the
business of balancing the budget, make
responsible spending cuts that will not
harm our elderly, our children, and our
environment. The continuing resolu-
tion that we agreed to last night com-
mits us to those priorities.

This agreement have been reached and the Government would not
have reopened today had the Demo-
cratic caucus not insisted that the
House stay here and work over the
weekend. If we had adjourned on Satur-
day, as the leadership planned, Federal
workers would still be on the job and the stalemate would continue.

I commend every Federal worker for
their public service in these difficult
times. Now that the Government is up
and running, Mr. Speaker, it is time for
us to get down to the real issues at
stake in the balanced budget debate.
We must make the tough decisions to
return our Government to fiscal re-
ponsibility and to balance the budget
in 7 years.

Let us work together to reach the
balanced budget goal in a way that
helps working families and protects the
most fragile part of our society. Let us
return our constituents to a sense of
pride in their Government.

IT IS TIME TO HOLD THE LINE

Mr. STEARNS. Mr. Speaker, to quote
Alexander Hamilton: “Here, sir, the
people govern; here they act by their
immediate Representatives.”

Mr. Speaker, 90 percent of the incom-
cing calls to my office last week sup-
ported balancing the budget in 7 years.

As one caller put it, “President
Clinton is not a monarch.” We must
abide by the will of Congress as Alex-
ander Hamilton said.

Let me share a couple of other calls
with you.

Gordon, who lives in Lady Lake stat-
ed: “Don’t cave in on this budget
thing—Republicans must stand firm or
there will never be a balanced budget.”

Doris and Robert of Ocala said: “We
both feel so strongly about achieving
a balanced budget that we would both be
willing to forego our Social Security
checks for up to a year if it would
ensure a balanced budget. Stick to
your guns!”

Craig of Jacksonville stated that:
“He is a furloughed Federal employee
and he is willing to miss a pay check to
support the Republican’s plan.”

I believe we must act on the will of
the people and balance the budget as
we promised. And I am glad the Presi-
dent now agrees.

BUDGET NEGOTIATIONS

Mr. PALLONE. Mr. Speaker, I am very
pleased that the Federal Govern-
ment is back to work today and that
there was agreement on the continuing
resolution to keep the Government
working. I am also happy that one of
the principles that was articulated by
President Clinton and included in that
continuing resolution was adequate
funding for the environment.

We must make sure that in these
budget negotiations that take place
over the next few weeks that there is
adequate funding for the environment.
One of the concerns I have is that late
today we will be taking up an appro-
priations bill on the EPA, which does
not provide sufficient funding for the
environment. The bill undermines pro-
tection of the environment, increasing
associated health risks by significantly
decreasing EPA funding by about 20
percent with enforcement being the
hardest hit in terms of cuts, almost 25
percent.

I have always taken the position that
it is great if we have all good environ-
mental laws on the books. But if we do
not have the money to enforce them, to
make sure that the polluters are not
not honoring those laws, then there is
no point in having those laws on the
books.

I hope that we defeat this bill today
and that it serves as an example of why
we have to provide adequate funding in
the budget for the environment.

A REAL BALANCED BUDGET

Mr. DAVIS. Mr. Speaker, I think we
can all rightfully take pride in the
agreement reached last night. The
President has finally recognized the
need for a 7-year balanced budget
scored by the Congressional Budget Of-
fice the way it should be scored: 100
percent with enforcement being the
hardest hit in terms of cuts, almost 25
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fice the way it should be scored: 100
percent with enforcement being the
hardest hit in terms of cuts, almost 25
percent.

Now we will work with the Demo-
crats and the President to fashion a
plan together to accomplish this. This
week America will celebrate Thanks-
giving Day. For the first time in many,
many years, Congress has given the
American people something to be
thanked for, a commitment for a bal-
canced budget.

I look forward to working with my
friends on the other side of the aisle to
fashion a true balanced budget in the
coming weeks.
END TAX BREAKS FOR THE WEALTHY AND CORPORATE WELFARE

(Mr. SANDERS asked and was given permission to address the House for 1 minute.)

Mr. SANDERS. Mr. Speaker, the key issue under debate now is not whether we build the budget in 6 years or 7 years or 8 years. That key issue is how we balance the budget, whether we balance it in a fair and just way or whether we balance it on the backs of the weakest and most vulnerable people in our society, the elderly, the children, the working people, and the poor.

In my view, instead of cutting Medicaid, we should cut the $125 billion a year we give in tax breaks and subsidies to the big corporations and the wealthy, which is corporate welfare. Instead of cutting back on Medicaid and veterans’ needs, we should cut back on the B-2 bombers and star wars and the other military spending that is unnecessary and not asked for by the Pentagon.

Instead of cutting back on education and student loans, we should make absolutely certain that at a time when the rich are becoming richer, we do not give 1 penny of tax breaks to the wealthy or the large corporations.

GOOD STEWARDSHIP

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the prior speaker said that those of us on this side are only trying to put a face on this. Let me say that the Chaplain called this group together this morning with a prayer about stewardship.

Let me say, on the other side of the aisle, I saw no good stewardship vis-a-vis the Government last week as we saw the most expensive and costly shutdown in the history of this Nation over a tantrum. One does not have to put a face on that. That was outrageous.

But today we are back at work and we should be taking our stewardship very seriously. Of course, we should be moving toward a balanced budget. Of course, we have got to do that. But we should be good stewards of the environment. We should be good stewards of our children’s education and their future in the 21st century. And we should spend: This commitment represents special interests, to the great crown jewel that they keep talking about, the tax benefits for the wealthiest of the wealthy. That is what this country starts out about and that is what we should be getting to work on today.

OUR CHILDREN’S FUTURE

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, Republicans in Congress promised to balance the budget and stop raiding our children’s future to support today’s bankrupt policies. We are now a giant step closer to making that a reality.

Last night, President Clinton committed his administration to honest numbers and an end to years of deficit spending. This commitment represents total victory for congressional Republicans because we did not barter away our two main goals: a 7-year balanced budget and CBO scoring.

Today, the American people can claim victory.

The victory we all celebrate today is that finally Washington rejected the status quo. We’ve put aside the excuses and we put our children’s future ahead of Washington’s future.

As we balance the budget, Congress and the President will abide by honest numbers. This is a victory for all Americans. No more excuses, we’re doing the right thing for our children’s future.

CROWN JEWEL IN JEOPARDY

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, now is the time to put a face on that. Let me say that the Chaplain called this group together this morning with a prayer about taking the mantle of leadership.

Let me say, on the other side of the aisle, I saw no good leadership vis-a-vis the Government last week as we saw the most expensive and costly shutdown in the history of this Nation over a tantrum. One does not have to put a face on that. That was outrageous.

But today we are back at work and we should be taking our leadership very seriously. Of course, we should be moving toward a balanced budget. Of course, we have got to do that. But we should be good stewards of our children’s education and their future in the 21st century. And we should spend: This commitment represents special interests, to the great crown jewel that they keep talking about, the tax benefits for the wealthiest of the wealthy. That is what this country starts out about and that is what we should be getting to work on today.

A VICTORY FOR CHILDREN

(Mr. TATE asked and was given permission to address the House for 1 minute.)

Mr. TATE. Mr. Speaker, today is a historic day. I hear my friends across the aisle say, we are for a balanced budget. We think it is important. They have been here 40 years. It has been a generation since they have balanced the budget.

The Republicans are pleased that the President finally agrees with the new majority to balance the budget in 7 years, to use honest numbers to do so.

As we balance the budget, Congress and the President will abide by honest numbers. This is a victory for all Americans. No more excuses, we’re doing the right thing for our children’s future.

STANDING FIRM ON PRINCIPLES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, yesterday, I was proud to be a Democrat. Proud as a Democratic President stood firm on the principles of our party, and stood up for our seniors, our children, and our environment.

Yesterday’s agreement lays the framework for balancing the budget in a way that reflects the priorities of the American people.

Balancing the budget means balancing the books, but it also means balancing our priorities. Protecting health care for our seniors, educational opportunity for our youngsters, and our natural resources for the next generation, must be our goals. Those are the priorities of the American people.

Those are the priorities of the Democrats in Congress. Yesterday, the President stood firm for those principles and stood up for our seniors, our students, and our environment.

So to the Republican leadership I say, reduce the tax breaks to the rich and cut out the corporate welfare, and we will get to a balanced budget.
AN APOLOGY

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, Friday evening the gentleman from California [Mr. CUNNINGHAM] directed an inappropriate remark at me for which he subsequently apologized. Unfortunately, I responded to that remark in an even less appropriate way by forcing Mr. CUNNINGHAM to leave the House floor with me and then instigating a physical confrontation outside the doors. I acted in a way that is becoming a Member of the Congress.

If this were an athletic ring, a top gun Navy fighter pilot the size of Duke CUNNINGHAM would certainly have made for a fair fight of it. But we are supposed to be engaged in a battle of ideas, demonstrating to the American people and other countries how we settle on differences in a nonviolent way.

Mr. CUNNINGHAM deserves an apology from me. I hereby offer one.

☐ 1430

FINALLY A PLAN TO BALANCE THE BUDGET IN 7 YEARS

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCARBOROUGH. Mr. Speaker, this is a truly historical day in this country, not because we have agreement on a balanced budget, but because we finally have the executive branch and the legislative branch agreeing to balance the budget in 7 years.

Now we have seen a lot of flip-flops over the past year. We are going to put that behind us. We are going to do what it takes to protect and preserve Medicare and to also balance our budget for the next generation.

Of course, we have heard the Democrats attacking our plans on Medicare, saying that it was mean-spirited, but let us hear what the Washington Post had to say about the difference between the plans. They said:

Though many of the President’s advisers think the GOP’s proposal is sensible and it differs little from his own plan, the President fired sound bites from the Oval Office daily taking the low road in ways that only Washington pundits could recast as standing trial.

Let us forget the demagoguery, let us admit that there is only $4 difference between our Medicare and the President’s Medicare plan, and let us get on with the people’s business, and stop looking over our shoulders, and do what is right. That is why we were elected, and that is the principle that we stand firmly on.

Balance the budget for the next generation.

THANKSGIVING INTROSPECTION

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. DOGGETT. Mr. Speaker, among those many blessings for which we can give thanks this Thanksgiving, one is our good fortune at being a part of the greatest Nation in the world.

Yes, I have listened to those who come almost daily to this House floor to whine about almost everything that has happened over the last six decades, beginning with President Roosevelt signing Social Security into law, something they have never gotten over. But while we are gathered at the Thanksgiving table this Thursday, let us look at our own families and think what we want our national priorities to be.

As we look at the oldest member of our family, do we want to deny her health care security just in order to give those who have the most another tax break? As we look at the young, do we want to put more obstacles in the way of their educational opportunities so that they too, can share in the great bounty of this Nation just in order to give the Pentagon $7 billion in costly weapons systems it never asked for? And are all of us going to have to buy bottled water next Thanksgiving because this Congress cannot stand up to the polluter lobby? I think not.

The American people can speak out this Thanksgiving and tell what they have to be thankful for and what they will be thankful for when this budget is concluded.

CONGRATULATIONS TO MY BRAVE COLLEAGUES FOR STICKING TO THEIR GUNS

(Mr. BONO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONO. Mr. Speaker, what really happened?
First of all, the Members that decided to stay on the floor over the weekend accomplished zip, and zero, and nothing. All they did was they, and do not hiss. That is kind of foolish.

Mr. Speaker, all they did was make the Capitol Police stay here on Sunday and keep their staffs here. But what did they accomplish over the weekend so we had a balanced budget? Nothing. What happened? We finally made the President understand that he had to balance the budget in 7 years. No one else did. We did by sticking to our position. Eventually it dawned on the President that he had to balance the budget, and therefore Congress can no longer play any more games, and we got what we wanted.

Other than that, that was what occurred over the weekend so we had a balanced budget. It was my colleagues here, and I congratulate all of my colleagues for sticking to their guns, and that is all that brought this about, nothing else. Everything is rhetoric.

BALANCING THE BUDGET IN A FAIR AND EQUITABLE WAY

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, I think that, as we are on the brink of a chance to trim this budget in a fair and equitable way, I am begging that we take into consideration the crisis which exists for the veterans in this country with the current budget put forth by Republicans. The budget is setting, as it now does, a double whammy on veterans. Do most of us realize that Medicare has been cut, and the Medicaid cuts alone would force as many as 172,000 veterans to lose Medicaid coverage in the year 2002.

I come before my colleagues this morning to beg that they watch what is happening to the veterans of this country because these are the people who went to wars and to foreign wars to help each of us, so it is up to us now to be sure that in addition to the harsh Medicaid cuts, look at the cuts in the VA budget that are going to severely impact veterans.

And I want to say to my Republican friends we are spending a lot of money on the military budget. Let us think of those who have already extended their lives into the military.

SEVEN YEARS MEANS SEVEN YEARS

(Mr. LIVINGSTON asked and was given permission to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, Medicare has gone up, Medicare has gone up, veterans benefits are going up. But 7 years is not going up. Seven years is seven years. The President committed to 7 years, not 8, 9, 10, 12, anything else. He committed to 7 years last night, and we are going to hold him to it. This is not a goal of a balanced budget in 7 years, it is a commitment, it is a contract, a rock solid contract.

Now, Mr. Speaker, we have to go through the implementing legislation. The President has to provide his guidelines on how he wants to reach that 7-year balanced budget. We will look at his figures. But it is going to be balanced within 7 years according to Congressional Budget Office scoring. That is a deal.

NO MORE BRINKSMANSHIP WITH FEDERAL EMPLOYEES

(Ms. NORTON asked and was given permission to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, Republicans have focused on the No. 7. Now focus on the No. 1. It is for Medicare, Medicaid, then education, and the environment. President Clinton has explained that the agreement means, “nothing will be agreed to unless all elements
are agreed to," and he said, "I cannot sign a budget that devastates" these programs.

Another drop-dead date, December 15, looms just before Christmas. We should not even think about further brinksmanship with Federal employees.

A week of shutting down the financially devastated District has taken a new, catastrophic toll inflicted by this body. A short continuing resolution made it impossible to calibrate payments to avoid over-obligation in running a complex city.

The D.C. appropriation will probably not come to the floor this week. Yet 85 percent of that appropriation comes from D.C. taxpayers.

Free the 85 percent that is our money.

LET US BALANCE THE BUDGET FOR OUR GRANDCHILDREN

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, I am here this afternoon to announce the birth of my second grandson, John Allan Simpson, born this morning at 8:30. Mother and son are doing fine; father not doing so well, but he will come down to earth soon, too. But it is the grandchildren that caused me to run for Congress.

Before I came here, I had a much better job, made about twice as much money and had actual vacations. But it is important for us as leaders in this country to get control of the runaway spending that we are passing the bill on to our grandchildren. John Allan Simpson, if we do not change our ways, will have a $187,000 bill just for interest on the debt over his lifetime. That is immoral. For 30 years we voted ourselves wishes and dreams and passed the bills on to our grandchildren. That is immoral.

I am proud to say that this weekend we have gotten some movement. I am pleased that the President has agreed that within the framework that we have proposed we will come to terms with not spending more than $7 trillion over the next 7 years. We will get control of the debt, balance the budget and grow out of this mess for our grandchildren.

NOW IS THE TIME FOR CONGRESS TO DO ITS WORK

(Mr. BENTSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, the budget crisis having been temporarily averted, the Government back to work, credit being over claimed, everybody won; now is the time for Congress to do its work, pass the appropriations bill, send the reconciliation bill to the White House, accept the vetoes, and then let us sit down like adults and work out a bipartisan balanced budget that protects our values for Medicare, which I would argue the differences are not $4, but hundreds of billions of dollars for Medicaid, for education, and the environment.

Seventy-five Democrats and Republicans, myself included, knew where to start. Let us build on that. Let us build on the coalition budget. Let us do what the people sent us here to do. Let us work out an acceptable compromise.

HOW DO WE SPEND $12 TRILLION OVER THE NEXT 7 YEARS?

(Mr. THOMAS asked and was given permission to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker, the President agreed to 7 years, CBO numbers; Republicans have been saying 7 years, CBO figures. We have come to an agreement, but that really is not the parameter of the agreement. The agreement is how do we spend $12 trillion, over the next 7 years? Basically it is an agreement between the majority party, House and Senate Republicans, and the President.

The Democrats come to this well the morning after the agreement and continue to talk about cuts. We are talking about how we spend 12 trillion dollars over the next 7 years. To the degree the Democrats do not begin to be part of the solution, they are going to be even more irrelevant than they are now. To the degree they continue to talk about cuts, they are simply not going to be at the table.

We are going to work out over 7 years how to spend $12 trillion according to the Congressional Budget Office numbers. We would like to have our colleagues as part of our team. We are not cutting, we are adding. To the degree our colleagues think we are cutting, they are irrelevant.

LET US MAKE THE BIPARTISAN AGREEMENT HAPPEN

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, I applaud the agreement finally reached by the President and Republican leaders to end the shutdown and put government back to work again for the American people.

The deal to balance the budget in 7 years is good. But even better is the acceptance, finally, by Republicans in the deal that balancing the budget in 7 years must protect the needs and desires of the American people. It must protect future generations; protect Medicare; protect education; protect Medicaid; protect working families; protect agriculture; protect national defense; protect veterans; protect the environment; and protect economic growth.

We finally have a bipartisan agreement to balance the budget in a way that is fair and just to all Americans and not just the rich.

We have a bipartisan agreement that reflects the American values and priorities that the President and Democrats have been fighting so hard to preserve. Now let us work to make it happen.

HELP STIMULATE THE ECONOMY

(Mr. COLLINS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Georgia. Mr. Speaker, there have been several speakers who have come to the floor this morning and talked about the agreement and the entitlement programs that it will address in the next 3 weeks, but there is another very, I think, very influential and very important portion of that agreement and that is that we shall adopt tax policies to help working families and stimulate future economic growth. Tax policy to help working families. That is the $500 tax credit that not only we have proposed in legislation and passed this year, but also that the President proposed earlier this year.

Stimulate economic growth. When the minority leader appeared before the Committee on Ways and Means earlier this year, I asked him about a provision in the Tax Code that I think have cost more assembly line jobs than any provisions that have been implemented and I support repealing it; and his answer was yes. And that is the alternative minimum tax.

The capital gains tax. What more has history proven that will help stimulate the economy than the capital gains tax? Mr. Speaker, we do not need to overlook this very important part of this agreement.

WHO ARE THE TRUE WINNERS IN THE GOVERNMENT SHUTDOWN?

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, who are the true winners of the Government shutdown battle? Is it (a) the Democrats, (b) the Republicans, (c), the American people, or (d) all of the above?

The correct answer is (d), all of the above. Everyone can claim victory for the compromise made by President Clinton and the Congress last night. The compromise allows Republicans and Democrats to legislate and even compromise, which is what the American people sent us here to do. However, in this time of euphoria, we must remember that we have agreed to a temporary cease-fire and not a permanent settlement. The tough sledding lies ahead. Republicans must understand that while we all want a balanced budget, it must be done while...
protection of Medicare, Medicaid, the environment, and education.

Mr. Speaker, let us put partisan politics aside and balance the budget. No more brinkmanship, no more gun-rights at the OK Corral. Let us do it the right way, and we all can come out winners.

Mrs. SCHROEDER. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I think what the gentlewoman knows, it must be harder to raise a capital gain than it is a child.

PARLIAMENTARY INQUIRY

Mrs. SCHROEDER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman will state it.

Mrs. SCHROEDER. What is the method for extending speakers when a limit comes at the beginning of the hour on 1-minutes? Does each side just make a request to extend whenever they have extra speakers show up?

The SPEAKER pro tempore. It is the Chair’s power of recognition.

Mrs. SCHROEDER. Continuing parliamentary inquiry, Mr. Speaker. The Chair can decide at any time not to abide by the time that was put down at the beginning of the hour if the Chair so desires?

The SPEAKER pro tempore. The Chair felt that it was accommodating Members on both sides to adjust that limitation at the end, as Members continued to come into the Chamber.

Mrs. SCHROEDER. Further parliamentary inquiry, Mr. Speaker. Does that mean both sides go to the Chair before the extension, then, is granted?

The SPEAKER pro tempore. The Chair would normally make that statement at the beginning, and they would then abide by that. It came later today.

Providing for Conditional Re-cess or Adjournment of the Senate and Adjournment of the House

The SPEAKER pro tempore laid before the House the following privileged Senate Concurrent Resolution (S. Con. Res. 32) providing for a conditional re-cess or adjournment of the Senate on Monday, November 20, 1995, until Monday, November 27, 1995, and a conditional adjournment of the House on the legislative day of Monday, November 20, 1995, or Tuesday, November 21, 1995, until Tuesday, November 28, 1995.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 32

Resolved by the Senate (the House of Representatives concurring). That when the Senate recesses or adjourns at the close of business on Monday, November 20, 1995, pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until a time to be determined by the Majority Leader on Monday, November 27, 1995, or until Tuesday, November 28, 1995, unless the House agrees to the Senate amendment.

SEC. 2. The two Houses shall convene at 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first; and that when the House of Representatives adjourns on the legislative day of Monday, November 20, 1995, or the legislative day of Tuesday, November 21, 1995, it stand adjourned until 12:30 p.m., on Tuesday, November 28, 1995, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first.

Announcement by the Speaker Pro Tempore

The SPEAKER pro tempore (Mr. EWING). The Chair will entertain one reduction for the wealthiest people in American families, the $500 tax credit is $125 for 1995, while the capital gains tax break to the wealthiest people in our country. But listen to this: It is retroactive until last January. So, effectively, the tax credit for this: It is retroactive until last January.

The Speaker recognizes the gentleman from New Mexico [Mr. LONGLEY]. Mr. Speaker, I want to echo the comments of my good friend, the gentleman from New Mexico [Mr. Richardson]. I think he is exactly on track. The public is tired of the partisan bickering. They sent us here to do the people’s business. I think we have reached a milestone in government where we are all in agreement that the time has come to balance the Federal budget in 7 years.

I understand the concerns of many who are upset with the Republican budget. Now I have to tell my friends on the other side of the aisle that the shoe is now on the other foot. If we are not spending enough money, then somebody needs to quantify not only how much more money needs to be spent, but how are we going to pay for it. We have been hearing a lot of “I am for favoring balancing the budget.” Now the time has come to deliver.

The Speaker recognizes the gentleman from California [Mr. MOORHEAD]. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I think what the gentlewoman knows, it must be harder to raise a capital gain than it is a child.

AMENDING COMMENCEMENT DATES OF CERTAIN TEMPORARY JUDGESHIPS

Mr. MOORHEAD. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 2361, to amend the commencement dates of certain temporary Federal judgeships.

The clerk reads as follows:

H.R. 2361

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

SEC. 1. COMMENCEMENT DATE OF TEMPORARY JUDGESHIPS

Section 202(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 104 Stat. 5101; 28 U.S.C. 133 note) is amended by striking out the last sentence and inserting in lieu thereof “The first vacancy in the office of district judge in each of the judicial districts named in this subsection, except the western district of Michigan, occurring 5 years or more after the confirmation date of the judge named to fill a temporary judgeship created by this Act, shall not be filled. The first vacancy in the office of district judge in the western district of Michigan, occurring after December 1, 1995, shall not be filled.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes, and the gentlewoman from Colorado [Mrs. SCHROEDER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MOORHEAD].
Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume. (Mr. MOORHEAD asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 2361, to amend the commencement dates of certain temporary Federal judgeships. In 1990 the Federal Judgeship Act, Public Law 101-550, part of the Judicial Improvements Act of 1990, created 13 temporary Federal judgeships. These temporary positions are unique in that 5 years after the effective date of the act, December 1, 1990, the next vacancy occurring in each of those 13 courts will not be filled. Therefore, under the present provisions of the act any vacancy created by death, retirement, or by a judge taking senior status after December 1, 1995 will not be filled. This has the effect of allowing districts with clogged dockets to receive the benefit of an extra judge for a temporary period of 5 years.

The problem arises because the confirmation process is time-consuming and the temporary judgeship positions were not filled in some districts until 1994. For those courts a vacancy created shortly after December 1, 1995, by death, retirement, or a judge taking senior status, would result in that court having had the benefit of the temporary position for a little as 14 months rather than the 5 years intended by Congress.

The proposed change would establish the confirmation date of the judge named to fill the temporary position as the starting point for the 5 years. Any vacancy occurring 5 years after that confirmation date would not be filled. This change would assure that all affected districts would receive the benefit of the temporary judgeship position for the full 5 years.

This bill has bipartisan support and will appreciably enhance the administration of justice in those districts where the caseloads necessitated the creation of temporary judgeships.

All identical bill was introduced by Chairman HATCH and passed in the Senate.

I urge a favorable vote on H.R. 2361. Mr. Speaker, I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker I join our subcommittee chairman in supporting this bill. This is really a simple technical amendment to ensure that districts that have been authorized for temporary judgeships get the full 5 years' benefit of their temporary judge, as Congress originally intended.

The Federal Judgeship Act, passed by Congress in 1990, created 13 temporary Federal judgeships to give 13 Federal districts with serious docket backlogs an extra judge for 5 years. Unfortunately, because of the time consumed by the confirmation process, the intended 5-year benefit will be whittled away to less than the date that the temporary judge for a full 5-year period.

This bill would ensure that the affected districts receive a full 5-year temporary judgeship. This bill is important to the State of Hawaii, which was one of the 13 court districts which will not be filled. Hawaii currently has a vacancy in one of its three permanent Federal judge positions due to the death of Judge Harold Fong. It is impossible at this point for a new judge to be nominated and confirmed before December 1, 1995, which means that under the original provisions of the Judicial Improvements Act of 1990, the current vacancy will not be filled, even though Hawaii has not had the benefit of an additional temporary judge for the full 5-year period.

H.R. 2361, would resolve this problem and assure that Hawaii and the 12 other court districts receive the full benefit of a temporary judge for a full 5-year period. This bill establishes the confirmation date of the judge named to fill the temporary position as the starting point for the 5 years. It stipulates that the first vacancy occurring 5 years after that confirmation date will not be filled, retaining the temporary nature of the position, but assuring that the jurisdictions have the service of the temporary judge for the full 5 years.

I urge my colleagues to support this bill which will restore the original intent of the Judicial Improvements Act of 1990 and provide necessary assistance to these 13 Federal court districts.

Mr. COSTELLO. Mr. Speaker, I rise in support of H.R. 2361, the bill to change the expiration date of certain temporary judgeships established in 1990. Instead of expiring 5 years from the bill's date of enactment, the judgeships will expire 5 years from the date of confirmation.

It is of critical importance that this legislation be approved and sent to the President for his signature prior to December 1. Without a change in the law, as many as 13 districts will not be able to take advantage of the temporary judgeships because of delays in the confirmation process.

The temporary judgeships will enable the Federal courts to better handle their extensive workload. That is why I am strongly supporting this legislation which simply makes a technical change and allows the original intent of the law—5-year temporary judgeships for certain Federal districts.

I hope my colleagues will join me in supporting this bill so we can forward it to the President for his signature before the December 1 expiration date.

Mrs. SCHROEDER. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. Speaker pro tempore. The question is on the motion offered by the gentleman from California [Mr. MOORHEAD] that the House suspend the rules and pass the bill, H.R. 2361.

The question was taken; and (two-thirds of those who voted in favor thereof), the rules were suspended and the bill was passed.

Mr. Speaker pro tempore. A motion to reconsider was laid on the table.

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent to take from the
Speaker's table the Senate bill (S. 1390) to amend the commencement dates of certain temporary Federal judgeships and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. SCHROEDER. Reserving the right to object, Mr. Speaker, I do so to yield to the gentleman from California [Mr. MOOREHEAD] to explain his request.

Mr. MOOREHEAD. Mr. Speaker, this is a companion Senate bill. This action will enable the bill to go to the President.

Mrs. SCHROEDER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1328

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

SECTION 1. COMMENCEMENT DATE OF TEMPORARY JUDGESHIPS.

Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101-650, 104 Stat. 4820 U.S.C. 113 note) is amended by striking out the last sentence and inserting in lieu thereof "The first vacancy in the office of district judge in each of the judicial districts named in this subsection, except the western district of Michigan, occurring 5 years or more after the confirmation date of the judge named to fill a temporary judgeship created by this Act, shall not be filled."

The first vacancy in the office of district judge in the western district of Michigan, occurring after December 1, 1995, shall not be filled.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2961) was laid on the table.

CONCURRING IN SENATE AMENDMENT TO HOUSE JOINT RESOLUTION 122, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1995

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that it be in order to take from the Speaker's table the joint resolution (H.J. Res. 122) making further continuing appropriations for the fiscal year 1995, and provide for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, pursuant to the order of the House, I ask unanimous consent that it be in order to adopt the motion that the House concur in the Senate amendment to House Joint Resolution 122, then the Chair may postpone further proceedings on that question until a later time or place in the legislative schedule of the current legislative day, any may resume such proceedings as though postponed pursuant to clause 5(b)(1) of rule XVI.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

SENATE AMENDMENT: Strike out all after the resolving clause and insert:

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1995, and for other purposes, namely:

TITLES I CONTINUING APPROPRIATIONS

Sec. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in section 101) or to resume, or continue any project, activity, operation, or organization which are defined as any project, program element, and subprogram within a project, subproject, activity, budget activity, appropriation, or organization which are defined as any project, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1995. Provided, That no appropriations, funds, or other authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurement of military equipment, procurement utilizing advance procurement fundings unless specifically appropriated later.

Sec. 102. Appropriations made by section 101 shall be available to the extent and in the manner permitted by the pertinent appropriations Act.

Sec. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project, subproject, activity, program element, and subprogram within a program element and for investment items unless specifically appropriated later.
SEC. 105. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which is not applicable to any appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 106. Except as provided in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be deemed an enactment into law of an appropriation for any project or activity provided for in this joint resolution and shall be charged to the applicable appropriations Act by both Houses of Congress without any provision for such project or activity, or (c) December 15, 1995, whichever first occurs.

SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorization or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available and authority granted pursuant to this joint resolution may be used for a project or activity for which there is a budget request, or whenever an Act in section 101 has been passed by only the House or the Senate as the case may be, without the time limitation for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this joint resolution, except section 106, when an Act listed in section 101 as passed by both the House and Senate as of the date of enactment bears the date after the date of enactment of this joint resolution, and is item vetoed by the President after the enactment of this joint resolution, the provisions of that Act shall be deemed to be in effect on the date of enactment of the Act unless the President takes in order to provide for continuation of projects and activities.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, the following measures of the first session of the One Hundred Fourth Congress presented to the President after the enactment of this joint resolution that would impinge on final funding provisions of Public Law 104±4 may continue.

SEC. 122. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations of the following projects or activities shall be only the minimum necessary to accomplish orderly termination:

(a) The President and the Congress shall enact legislation in the first session of the 104th Congress for the purposes of maintaining the essential level of activity to protect life and property and bring about orderly termination of government functions are hereby ratified and approved if otherwise in accord with the provisions of this Act.

TITLE II

SEC. 201. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING.

(a) WAIVER.—The provisions of sections 106 and 107 of title I, United States Code, are waived with respect to the printing on parchment of any of the following measures of the first session of the One Hundred Fourth Congress presented to the President after the enactment of this joint resolution that would impinge on final funding provisions of Public Law 104±4 may continue:

(1) A continuing resolution.

(2) A debt limit extension measure.

(3) A reconciliation bill.

(b) CERTIFICATION BY COMMITTEE ON HOUSE OVERSIGHT.—The enrollment of a measure to which subsection (a) applies shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

SEC. 202. DEFINITIONS.

As used in this joint resolution:

(1) CONTINUING RESOLUTION.—The term "continuing resolution" means a bill or joint resolution that includes provisions making further continuing appropriations for fiscal year 1996.

(2) DEBT LIMIT EXTENSION MEASURE.—The term "debt limit extension measure" means a bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of title 31, United States Code.

(3) RECONCILIATION BILL.—The term "reconciliation bill" means a bill that is a reconciliation bill within the meaning of section 310 of the Congressional Budget Act of 1974.

SEC. 203. COMMITMENT TO A SEVEN YEAR BALANCED BUDGET.

(a) The President and the Congress shall enact legislation in the first session of the 104th
Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office, and the President and the Congress agree that the balanced budget must include future operations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. Further, the balanced budget shall adopt tax policies to help working families and to stimulate future economic growth.

(b) The balanced budget agreement shall be estimated by the Congressional Budget Office based on its most recent current economic and technical assumptions, following a through consultation and review with the Office of Management and Budget, and other government and private experts.

**MOTION OFFERED BY MR. LIVINGSTON**

The SPEAKER pro tempore. The Clerk will designate the motion. The text of the motion is as follows:

Mr. LIVINGSTON moves that the House concur in the amendment of the Senate.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] each will be recognized for 30 minutes.

The Chair recognize the gentleman from Louisiana [Mr. LIVINGSTON] for 30 minutes.

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to revise and extend their remarks on House Joint Resolution 122, and that I might include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana? There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LIVINGSTON asked and was given permission to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, the Senate amendment before us now to the House Joint Resolution 122 represents the compromise agreement and, as I would call it, a contract between the Congress and the administration worked out with the joint leadership of Congress and the President and his administration to keep the Government operating through December 15.

Last night the House concurred with the Senate amendment to House Joint Resolution 123, which was a clean continuing resolution to keep the Government operating throughout this day. That action cleared that joint resolution for the President and which he signed late last night. Today we are considering the Senate amendment to House Joint Resolution 122 that would keep the Government operating through December 15.

Mr. Speaker, much has already been said about the language included in the Senate amendment on the 7-year balanced budget plan. It has been characterized with a lot of different twists, and I would just say that there is a clear 7-year balanced budget commitment in this continuing resolution. It is tough, it is real, and the House fully, or the leadership of this House fully intends to follow through with it, according, I might add, to the scoring procedure of the Congressional Budget Office.

The other changes to this continuing resolution that the Senate amendment would make are as follows:

- It changes the termination date to December 15; it changes the minimum level rate to 75 percent of the fiscal year 1995 levels for those programs that are terminated in either House or Senate bills, those appropriation bills which have not already been enacted into law; it includes the compromise 7-year balanced budget language that I had mentioned earlier, binding the Congress and the President to work on a glidepath towards a balanced budget by the year 2002; it includes provisions for nonessential Government workers to be paid in the event of a shutdown, or the shutdown that just transpired; and it makes a technical correction to the District of Columbia funding rate to enable payment on guaranteed loans which will have no effect on the final District of Columbia level.

The bottom line is very clear, Mr. Speaker. This continuing resolution sets in strong cement the agreement that was reached yesterday to put the United States on the path to a balanced budget as scored by the Congressional Budget Office. Anything less could ultimately lead to another shutdown after the term of this continuing resolution.

Mr. Speaker, this continuing resolution will be applicable to 7 of our 13 regular bills, since 6 have already been enacted into law. The defense bill is also on the President's desk, and I certainly hope that he will sign it. In fact, I urge him to do so for any number of reasons, but particularly he is now working on a peace agreement with the Bosnians; and, obviously, this House is already on record with respect to its wishes on that peace agreement that we not put troops on the ground. But even if he wanted to put troops on the ground, they should be paid, and he can effect that by simply signing the defense appropriations bill that is on his desk.

Mr. Speaker, we should be able to get to the foreign operations appropriations bill as well as the Interior bill and the VA-HUD bill, which we anticipate getting to him shortly. Commerce, Justice, and the District of Columbia bills are in conference and we should complete them very quickly. That leaves only the Labor-HHS bill, which, unfortunately, is still pending in the Senate, and we certainly hope they dispose of it as soon as possible.

We are getting our work done, Mr. Speaker, it will take about a month so that this will be the last continuing resolution. There are big issues in these bills that are outstanding, but we will need to address them and to negotiate them out so that our work will be complete and so that we can continue with the implementation of the balanced budget within 7 years, as scored by the Congressional Budget Office, that we began last spring.

Mr. Speaker, this continuing resolution represents the beginning of the negotiations to get this country's finances back in order and to ensure a future for our children and our grandchildren. It gets the Government back to work while the Members to vote to concur in the Senate amendment and to pass this continuing resolution once again.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I am happy to be here under these conditions today because this ends a fight which, in my view, never should have taken place in the first place. At the time that this fight started Congress had passed only two of its appropriations bills, military construction and agriculture. During that time that the two more were passed and signed by the President, and the President indicated just this weekend he would sign two more, which the Congress has now sent down to him.

We still have a long way to go for the Congress to finish its appropriations business, but at the time this fight ensued, over 90 percent of the appropriations required for the next fiscal year had not yet been passed by the Congress. Therefore, we had to pass a continuing resolution to keep Government open while the rest of the bills completed their way through the Congress.

The Speaker, as we now all know, tried to use that need in order to require the President to work from deeply held principles and beliefs. First, the continuing resolution which was passed by this House required the President to accept the idea of a doubling of Medicare premiums. The President said no. Then the Speaker told the press that the continuing resolution was made more confrontational because he had wanted to receive more attention than the President's plane to the Middle East for Mr. Rabin's funeral. That Government shutdown that ensured cost the taxpayers half a billion dollars. I guess we could say that is the most expensive plane ride in Government history.

Thank God that now all behind us and the Government is again open, and this bill will keep it open until December 15. This continuing resolution will allow the real negotiations to now begin.

Next week, Mr. Speaker, the Government will remain open while we debate the real issues. The language in the continuing resolution reads that it will ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment, and that we will adopt tax policies to help working families.
I think that makes clear that the issue has never been whether the budget would be balanced. The issue has been whether or not the budget would be balanced in a way that unites society by being fair rather than in a way that, by bashing, will not be clipped; that the safety net for children will not be shredded when they need a doctor; that education and veterans will not be crippled; that taxes on working people with modest incomes will not be raised in order to provide tax cuts for the well-off and the wealthy.

This debate, Mr. Speaker, has never been about accounting. This debate has been about values. We simply do not want just a balanced budget. In addition to a balanced budget, we also want a balanced society and we want a balanced economy.

We believe, Mr. Speaker, that fairness is not an ornament. We believe it is a core value, and that is why I am delighted that the resolution before us today finally, properly, recognizes those core values. We will, as we move into negotiation on the budget bill to come, insist that those values be respected on behalf of all of the people we represent.

Mr. Speaker, I reserve the balance of my time.

Mr. KINGSTON. Mr. Speaker, yield 2 minutes to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman and I want to commend him.

As the author of the balanced budget language that was first included in the debt limit bill, and then in modified form in the continuing appropriations resolution, I want to comment our congressional leadership for holding firm to the mandate that the President and Congress enact a 7-year balanced budget bill this year.

My original language in the debt limit bill, read that—

With the enactment of this Act the President and the Congress commit to enacting legislation in calendar year 1995 to achieve a balanced budget, as scored by the non-partisan Congressional Budget Office, not later than the fiscal year 2002.

In the continuing resolution initially passed by the House and Senate, the language was modified to read that the President and Congressional "shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the fiscal year 2002 as scored by the non-partisan Congressional Budget Office." The language before us today, as agreed to by the President and the congressional leadership yesterday, reads: "The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office.

There is additional language in the latest version requiring CBO consultation with OMB and others. And there is new language providing that a balanced budget must protect future generations, ensure Medicare solvency, re-form welfare, provide adequate funding for specified matters, and adopt tax policies to help working families and stimulate future economic growth.

I don't know of anyone who disagrees with those additional stipulations of what a balanced budget should do and will do. The important thing, though, is that we will now have signed into law a contract between the President and Congress to achieve this year that will give the American people a balanced budget by fiscal year 2002. What a Christmas present.

Let me tell Members this is one tremendous giant step in the right direction. I am a little concerned with what I am seeing on CNN and some of the television and radio programs this morning, as if there is some kind of wiggle room here. Let me tell my colleagues, there is no wiggle room. This is a 7-year binding Balanced Budget Act.

When I look at my good friend, the gentleman from Wisconsin [Mr. OBEY], and how he put emphasis on the agreement, it means reforming real fast. "The President and this Congress shall," not maybe, shall "legislate in the first session of the 104th Congress to achieve a balanced budget not later than the fiscal year 2002."

There is no wiggle room there, ladies and gentlemen. We will do it within the 7 years as estimated by the Congressional Budget Office. There is no wiggle room there. No smoke and mirrors. We will do it with realistic figures.

Mr. Speaker, we are not going to do what we did in 1985, when we passed Gramm-Rudman with no cuts in the first years, only in the later years, and then we never did it. Mr. Speaker, let me tell the President and this Congress, there is no wiggle room here. I say to the President, "Mr. President, this is a binding contract, morally. You must present to us a 7-year balanced budget, the same as we are going to you."

Mr. Speaker, let us compare apples to apples. Let the press look at it and let us stand on the merits of the two proposals. That is what this does. It is binding and negotiable, and I urge my colleagues to vote for it.

Mr. OBEY. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Minnesota [Mr. SABO], ranking Democrat on the Committee on the Budget.

(Mr. SABO asked and was given permission to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, I rise in support of this bill.

Mr. Speaker, we end this foolishness that we have been in for the last several days, and we get the Government running again. We get the debate focused on how we are going to balance the Federal budget.

Mr. Speaker, what kind of priorities do we deal with? How do we bring the deficit down? Let me speak to that issue briefly.

Mr. Speaker, I was one of a number of Democrats who supported an alternative budget that did balance the budget in 7 years. We balanced in 7 years, but we did it in a fashion, reforming health care, Medicare and Medicaid in a fashion that did not penalize poor elderly; that did not drive millions of people out of health care or, as an alternative, substantially increase the costs to State and local government; we reformed welfare in a way that was disciplined and tough and in combination with Republican plans that would drive literally a million or more kids into poverty.

Mr. Speaker, we did it in a fashion that enabled the Federal Government still to have the capacity to deal with the environment, the environment and a variety of other programs that we fund on an annual basis.

I look now at the program that my Republican friends bring and at their priorities, and what I discover to my amazement is that while they have a program that does, I think a lot of bad things to our society, they also increase the deficit for the next 2 years.

Mr. Speaker, let me repeat that. This Republican program, which does drastically cut health care budgets in this country, which would drive a million or more kids into poverty, which cripples our ability to fund education, the environment and other programs, increases the deficit for the next 2 years.

Mr. Speaker, I hope my Republican colleagues are listening. Let me give the numbers. We have had reduced deficits for the last 3 years. Under the Republican agreement, it goes up in 1996. For some reason, that seems to happen every year. But then, again, it goes up for the second year, 1997. In comparison to our coalition budget, the Federal deficit in 1997 would be $28 billion higher. Not lower; $28 billion higher.

Let me give my colleagues the numbers. Under the coalition budget, $160.4 billion. Under the Republican conference agreement, $189.1 billion. Why is the deficit under their plan $28 billion greater in 1997? A tax cut.

So, we not only are cutting at vital American programs to pay for a Republican tax cut, we are also borrowing the money to pay for it. So, Mr. Speaker, we look anxiously forward to the potential to do what the
Mr. Livingston. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. Edwards].

Mr. Edwards. Mr. Speaker, I come to the House today because it sets the right ground rules for the long-term budget. No cuts in Medicare, education, or the environment. No increase in the deficit. No tax cut that benefits the rich. That is important, because the budget debate is not some heartless discussion about formulas, numbers and budget scoring. It is about the lives of the American people and protecting what is important to them. We need to know that the budget the House adopted protects health care for our seniors, educational opportunity for our young' sters, and cleans up our environment.

This Thanksgiving, as American families give thanks for the blessings of this past year, let Congress work to fulfill the promise that America is going to be thankful for in the coming years: A balanced budget based on the values that we all share.

Mr. Livingston. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho [Mr. Crapo].

Mr. Crapo. Mr. Speaker, I think that very important compromise was reached and that it should be a big Christmas present for the American people. Nevertheless, I think it should be very clear what agreement was reached and where we are now as we go forward.

Mr. Speaker, immediately after the agreement, it seemed that there were very different discussions or representations to the American people about what was agreed to. In fact, that prompted a letter from the gentleman from Iowa [Mr. Ashman], the majority leader of the House of Representatives, to Mr. Leon Panetta, the chief of staff of the White House, to clarify what we are talking about.

Mr. Speaker, at the conclusion of my remarks, I will put the letter from the gentleman from Texas in the Congressional Record to clarify that the agreement which was reached was an agreement that does require us to balance the budget in 7 years. It was an agreement that does require that we all operate off the same sheet. In other words, that we all use the same numbers and the same projections as we discuss balancing the budget, that being the CBO projections.

Mr. Speaker, it has been probably said many times, but it needs to be said again, that as recently as 1993 when the President gave his first message to Congress, he talked about how we need to do the real tough negotiations. That is what this agreement is. It is about the lives of our veterans, our seniors, our children. That is what this agreement is about.

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too deep into this or that program, or whether it was a cut at all. Everyone has been claiming that they wanted to do it in the context of balancing the Federal budget.

Mr. Speaker, we can move on to discuss the proper priorities for this country and move us to the prosperity that will come from a true balanced budget.

The President intends to break his commitment, he shouldn't make it. If the President intends to break this commitment, he shouldn't make it. If the President intends to break the agreement that brings us here today to vote on this continuing resolution.

I am particularly grateful to President Clinton for holding firm to his commitment to protect Medicare, the environment, and education and to scale back the tax breaks for the wealthiest people in our country. I believe that the reconciliation bill the Republicans are proposing is not balanced at all; indeed, it is imbalanced in terms of its tax unfairness in addition to the priorities which I do not agree with.

For example, in that imbalance a $16-billion tax break will be given to America's corporations while there will be a $33-billion tax increase for America's families to pay for that corporate tax break.

In terms of capital gains, our colleagues are strong supporters of the capital gains cut. The capital gains cut in this bill, in the reconciliation bill is retroactive until January 1, while the much heralded $500 family tax credit is only effective October 1, thereby making it a $125 tax credit. How could it be that the capital gains tax is more important to be retroactive than the family tax credit?

In light of these and other unfair aspects of this bill, including the fact that taxes will go up for working families making under $28,000 a year, it is easy to see why when our Republican colleagues look in the mirror and say, mirror mirror on the wall, who is the fairest of them all, the mirror cracks, because of the unfairness contained in their reconciliation bill.

The mirror and the American people know that it is not fair to raise taxes on working families in America in order to give tax breaks to the wealthiest people in our country. That is why I am so pleased the reconciliation bill is not balanced. That is why I am so pleased the CR establishes the framework for debate. That is why I am so pleased the CR establishes the framework for debate. What are our priorities? It will be a statement of our values, this budget should be. How we spend our money says what is important to us. Medicare, protect the environment, invest in children and how we pay for it should not be on the backs of the working poor families in our country.

The American people now have their hopes up for an honest balanced budget in seven years. If the President intends to break this commitment, he shouldn't make it. If the President intends to break the bill he agreed to last night only for short-term polling gains but with no intention of abiding by it, it would be better for him to veto the bill.

Sincerely,

DICK ARMEY,
Majority Leader.

Mr. OBRY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank our ranking member for yielding time to me and thank him for his leadership. Mr. Speaker, congratulations to all of the parties to the agreement that brings us here today to vote on this continuing resolution.

I am particularly grateful to President Clinton for holding firm to his commitment to protect Medicare, the environment, and education and to scale back the tax breaks for the wealthiest people in our country. I believe that the reconciliation bill the Republicans are proposing is not balanced at all; indeed, it is imbalanced in terms of its tax unfairness in addition to the priorities which I do not agree with.

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Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes and 30 seconds to the distinguished gentleman from Arizona [Mr. COLBE], a member of the Committee on the Budget and the Committee on Appropriations.

Mr. KOLBE. Mr. Speaker, my introduction mentioned that I am a member of both the Committee on the Budget and the Committee on Appropriations. That is true. I think that has given me a very interesting perspective on this whole struggle that has been going on here now for so many days and weeks.

I rise in strong support of this continuing resolution which puts Federal workers back to work and, even more importantly, commits the President and Congress to working for a balanced budget in the next 7 years. If we could have had an agreement last week, in fact, what we are voting on today is not really any different than what we passed and sent to the President last week. At that time we said we would do exactly what we are doing now, adopting an agreement for a 7-year balanced budget with no preconditions. But it was not to be for political reasons last week.

Now we are here and that is water over the dam. It is time for us to move forward. What is important about this agreement is that we could have got a rock-solid commitment to have a balanced budget in 7 years. That is not 9 years. That is not 8 years. That is not 5 years. That is not 10 years. That is 7 years. We have an absolute agreement that that is what we are going to negotiate. And it is not negotiable.

It is not just would-it-not-be-nice. It is not a want to have. It is an absolute. It is in a contract with the American people. It is a contract between the White House and the Congress that we will negotiate to have this balanced budget in the next 7 years. It will be certified by the organization that the President, in his State of the Union Address in 1993, said that he wanted because it was the more conservative, it was the better of the two organizations: that is, the Congressional Budget Office. So it will be certified and the numbers will be conservative.

If it’s so conservative, and it turns out we can do it faster than that, great. If we can have more economic growth, great. But I think it is important for us to understand that all of this is just a preliminary. This is the first round in a 10-round championship boxing match. This is the preliminaries if you will, if we want to use a nicer way to look at it, the preliminaries of lovemaking.

We are engaged in a long marathon, a long struggle. This is only the beginning. Passing this continuing resolution does not get us to the balanced budget. This is just the beginning.

This is simply the beginning of the process that we must go with in order to achieve a balanced budget, a commitment to the American people, to the children, to the next generation. We are telling them that it will not continue borrowing from them. And we know the benefits of that, the benefits of lower interest rates, the benefits of...
greater economic growth. Those benefits will be with us, and with them, for decades.

Now is not the time to flinch. We must go forward. We must achieve a balanced budget and that is what the debate in the next several weeks will be all about.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BENTSEN].

[Mr. BENTSEN asked and was given permission to revise and extend his remarks.]

Mr. BENTSEN. Mr. Speaker, this truly is a historic day. My Republican friends have admitted that once and for all Medicare, Medicaid, education, the environment are important. They are no longer intuitive. They are no longer subsequent to a $245 billion tax cut. They have said that everything is on the table, including that $245 billion tax cut.

Now, Mr. Speaker, the hard part. The differences are deep. The differences are very, very deep. As one of my colleagues said today, we are only $4 apart on Medicare, quite frankly. That is simply not the case. We are hundreds of billions of dollars apart on Medicare, hundreds of billions of dollars that affect seniors, doctors, hospitals, medical research, and jobs.

We have hundreds of billions of dollars apart on Medicaid, affecting children, affecting women, and, again, affecting seniors and the hospitals that treat those individuals. We are very far apart on education, and we are very far apart on Social Security.

We have two alternatives. We have one that would give tax cuts primarily to those in the upper income spectrum while at the same time raising taxes on the working poor, very much the contrary of where all of us want to go on welfare reform. And others who would stand by the earned income tax credit that says if you are a family and you are trying to make it and you do not want to be on welfare, the Tax Code is going to work for you.

Mr. Speaker, we have a long way to go, but I believe the agreement made yesterday shows the American people that both sides can come together to get to the table and start the hard work that is necessary. We have 75 Members of this body. Democrats and Republicans, myself included, who are willing to work together on a budget. We can do it. Mr. Speaker, and we can do it. We can do it fairly to our seniors, to our families, to our children, and to the working people of this country.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. FLANAGAN].

Mr. FLANAGAN. Mr. Speaker, I rise in support of the CR today. I must make one observation though, Mr. Speaker. I would certainly hope that the President, in working very hard to achieve this agreement, and a fine agreement it is, I hope that he will also understand that there is no “if then” language. There is no “if but” language. We are going to get to balance in 7 years, he has agreed to, that we are going to get to a balanced budget, not to do it exactly one way or another, but the President is going to keep his word on this contract, that we are going to do it, that we are going to do it in 7 years, that we are going to start cutting down the spending of this country and let me just say this, let me just say this, and a fine agreement it is, I hope the President is going to see this in the same perspective and let the American people know that the President is going to keep his word on this contract and a fine agreement it is.

But with the President’s comments yesterday, I am concerned, Mr. Speaker, that the President will fall back or renege on a promise where if he does not have his way exactly, I will find a way out of this.

This is the business of compromise. We are trying to get to a balanced budget, not to do it exactly one way or the other, and I hope the President is willing to yield on that point. If he is not, if it is such that it has to be his way or not at all, I would hope that he would veto this CR as being very much like the one the other day, and a fine agreement it is, I hope the understanding is clear that it is a 7-year contract that we are after, and that is what we hope to achieve in 7 years.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Michigan. Mr. Speaker, I do not have quite the smile that the gentleman from Ohio [Mr. KASICH] did, but all over America, him lifting his hands and smiling, it is a great victory for the American people.

I think it is a change. It is a revolution. It is where we are going to be heading in this country, is to start cutting spending. I was a little concerned on one of the morning programs when Mr. Panetta said we could do it in 7 or 8 years. I hope the understanding is clear that it is a 7-year contract that we are after, and that is what we hope to achieve in 7 years.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Michigan. Mr. Speaker, I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I was confused. The gentleman said cutting spending, are we slowing the growth or cutting spending?

Mr. SMITH of Michigan. Mr. Speaker, I think we need to talk about that. I would hope some day we could have a true balanced budget and stop borrowing from the trust funds of this country. In fact, that is a real question, has the President and the Secretary of the Treasury legally gone in and borrowed from those trust funds, or is it supposed to have that money available for an increased debt of this country. I think that is something that needs to be examined.

But let us look a minute at where we went on taxes. In 1993, spread over 7 years, we had a 1990 tax increase that was about $280 billion. The 1993 tax increase spread over 7 years was $390 billion. The question I think we need to examine very carefully is, should we give part of that tax increase of those past years back in this balanced budget effort that we are proceeding on. I think the answer is yes, if we care about the American families.

We think Mr. Speaker, the President is going to keep his word on this contract, that we are going to do it, that we are going to do it in 7 years, that we are going to start cutting down the spending of this country and let me just say this, and a fine agreement it is, I hope the President is going to keep his word on this contract and a fine agreement it is.

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CONGRESSIONAL RECORD – HOUSE

OBEY] for yielding this time to me; and, Mr. Speaker, I rise in support of the continuing resolution, but also let me make clear to my colleagues and to those listening that we are here because not having anything to do with the democratic process of a balanced or the budget reconciliation package because Congress has failed in its responsibility to pass appropriation bills for fiscal year 1996.

Having failed to pass those bills, and having passed one continuing resolution, which is to pass those bills, we are now back again, continuing until December 15. I support that continuation because I oppose closing down the Government. However, it would have been much better to have a clean continuing resolution; we do not have that. We have a provision in there dealing with a commitment to a 7-year balanced budget. I support the continuing resolution with this language because the balanced budget, which we proposed and presented here on the floor of the House 2 weeks ago, does in fact get to balance over 7 years with using CBO scoring.

In fact, if my colleagues read the provisions of the commitment to a 7-year balanced budget, it also requires that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment.

In fact, there is one way that we can accomplish the 7-year balanced budget and ensure all of those things. It is through the coalition budget which I presented on the floor of the House 2 weeks ago. So, hopefully, we now, on a bipartisan basis, can start moving to that.

Let me just point out one additional factor of concern. It is the tax provisions in the bill. I am not opposed to tax cuts. In fact, we should be borrowing money from our children’s future to make the tax cuts. I hope we can negotiate reasonable tax policy, as this reflects, but if those, if those tax cuts, increase the deficit over the next 2 years, or in fact put us into deficit in years 0, 9, and 10, we will be in a worse position.

So, I urge us to be very careful as we move forward in those provisions.

Mr. LIVINGSTON. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Texas [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Speaker, I thank the chairman of the Committee on Appropriations for all the fine work he has done in trying to get our business done, and I know he will always at this time of the year people claiming we have to be here in this position because we have not got our business done.

Mr. Speaker, if the President had ever said on the table during his whole year we might be home with our families right now enjoying the holidays. The problem is that finally, finally the President has decided to sign this most historic agreement, and I am just absolutely thrilled that for the first time in recent history the President of the United States and the Congress has agreed to balance the budget and balance the budget in 7 years. This is historic, it is phenomenal, and I am just looking forward to the negotiations over the next few weeks.

But I want to get into the language because, make no mistake about it, unfortunately the national media has not picked up on this. The language says that there is an agreement, not a goal, not a maybe, an agreement to balance the budget in 7 years using honest numbers, and here is the language, and it does not say we are going to achieve a goal of a balanced budget, or we are going to achieve a maybe balanced budget. The language that will be in law when the President signs it is the 104th Congress is to achieve a balanced budget not later than the fiscal year 2002 as estimated by the Congressional Budget Office. Very real, very meaningful.

And I want to just touch on the rest of the language because the President seems to be saying he has now saved Medicaid and all other Medicare programs he has been fighting for so long on. Mr. Speaker, the language says that, protect future generations to ensure Medicare solvency. We have done that in the Balanced Budget Act of 1996. Mr. Speaker, I yield more time that in the Balanced Budget Act of 1995. And provide adequate funding for Medicaid, education, agriculture, national defense, veterans and the environment; we have done that in the Balanced Budget Act of 1995.

So I think the President, once we pass the Balanced Budget Act of 1995 this afternoon, and we send it, the President ought to sign it. He will get both. He will get the 7-year balanced budget and all the things that are in the Balanced Budget Act of 1995. And we sign it, but let me warn my colleagues that, if the President does not believe in this, it will be law when he signs it, and if the President goes to the American people and says, “Oh, by the way, no, I didn’t really mean 7 years, I really meant 8 years,” as his Chief of Staff has already said, then the President of the United States should not sign this CR. He should not sign it because he is promising the American people a balanced budget; and he is promising—

Mr. Speaker, I just finish with this. The President, when he signs this CR, is promising the American people a balanced budget using honest numbers. There is no equivocation, that is what this CR says, and if he, he and his Chief of Staff, then he will not only be misleading the American people, but he will be breaking the law.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to respond to something the gentleman just said.

First of all, let me say that yesterday at 1:30, when the President’s Chief of Staff came down to meet us in the office of Senator DASHEL, I was very pessimistic that in fact an agreement would be reached. But the two compromises proposals that were developed, which the White House then took to Senator DASHEL, which cut up producing a plan that would work for everybody, and I think we all ought to be very grateful for that.

But in light of what the gentleman from Texas [Mr. DELAY] just said, I want to remind my colleagues that the President is promising the American people a balanced budget, and shall be reached by fiscal year 2002 as estimated by the Congressional Budget Office. That does not mean that the Congressional Budget Office baseline is the one that will be used. It and it points out in (b) that that budget agreement shall be estimated by the Congressional Budget Office. That always occurs.

Mr. Speaker, I think the gentleman from Texas had also better remember, that in the agreement, if in the agreement within 7 years it will be necessary, as the agreement says, to ensure that Medicare, or to ensure Medicare solvency, reform welfare, provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. Now it is clear that we will not be able to do that on a 7-year timeframe and still provide the large unnecessary tax cuts which the majority party wants to give to people who are making a lot more money than this country that care the people whose taxes they want to raise in their reconciliation bill.

So I think we had better remember that this agreement is a balanced agreement which will not just balance the budget, but balance the economy in society along with it.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I just have to share with my colleagues and the majority whip that whenever two parties sit down to make out an agreement it is a binding agreement, words have meaning and should be, in fact, honored; and I was disappointed that Mr. Panetta, the Chief of Staff, would say this morning the budget could be balanced in 7 or 8 years.

Now is not time to waffle. When this agreement gets sent there, we have to place meaning to those words; and doing it in 7 years, and using CBO scoring is exactly what must be done.

I listened to some of my colleagues here on the Republican side say, “Use words such as excited, thrilled, and historic to describe this agreement.”

I have to share with my colleagues that I have somewhat of an ambivalence in my feelings here today because I think the American people, as they view the work we do here, are probably saying “So what, we balance our budget at some time, what’s the big deal that Congress is now balancing its books?”

If my colleagues stop to ponder and think about that, they are right. Why
Mr. WOLF. Mr. Speaker, I rise in support of the continuing resolution. I wanted to come to the floor after listening to some of the debate, because the question has never been for Demo-

crats whether or not to balance the budget; we want to do that. But a budget to be balanced must also be balanced not only in its numbers, but in its application and the way it affects working people in this country.

The fact of the matter is we have heard a lot about one side of this agreement. I, as an attorney, am looking at the language and saying, “but Congress and the President also agree that the balanced budget must,” and it goes on to name several things.

One of the things it says, it must ensure Medicare solvency. You do not do that taking $270 billion out of Medi-
care. That has to be negotiated. You do not ensure future generations in terms of this education when you are cut-
thinking. You do not ensure the environment if you gut the es
cential programs that give us clean drinking water.

So yes, there is an agreement to have 7-year balanced budget, but a budget to be balanced is also a question of prior-
ities, and those priorities include the second part of that agreement that you failed to highlight.

Mr. LIVINGSTON. Mr. Speaker, I am happy to yield 1 minute to the distinguished gentleman from California [Mr. THOMAS] chairman of the sub-
committee.

Mr. WOLF. Mr. Speaker, I rise in support of the continuing resolution. I wanted to come to the floor after listening to some of the debate, because the question has never been for Demo-

Mr. OBEY. Mr. Speaker, I yield my-
self 30 seconds, simply to respond to the gentleman from Ohio who is trying to make us believe we did pass such legislation in this House. Un-
fortunately, Mr. Speaker, it was fili-
bustered in the other body by the now majority leader, Mr. Dole, as the gentle-
man knows, I am speaking, of course, about the lobbyist reforms and about the legislation making us live under the same laws as everyone else. We did both of those by rule after, or we did one by rule after we were pre-
vented from doing it by the Senate, and we passed the other through the House and it was filibustered by the Senate.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, will the gentleman yield?

Mr. WOLF. Mr. Speaker, we promised to balance the budget; promises made, promises kept.

Mr. WOLF. Mr. Speaker, I rise in support of the continuing resolution. I wanted to come to the floor after listen-
ing to some of the debate, because the question has never been for Demo-

Mr. WOLF. Mr. Speaker, we promised to balance the budget; promises made, promises kept.
Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding time to me. Let us go back to the language. Let us look at what it says. Remember, a majority of the House and a majority of the Senate has already voted a program to balance the budget in 7 years. What this document says is, “a balanced budget not later than fiscal year 2002.” One of the reasons people are complaining about the current Congressional Budget Office numbers is they have lost the ability to get our job done. Now frankly, some have talked about the CR and been angry about the fact that it was the President. In point of fact, the President refused to sign CR’s which he thought undercut priorities for Americans that he thought were important: the environment, Medicare, the list could go on. In fact, it is included in this CR.

The fact of the matter is whatever the reasons we shut down Government, it cost us money. It could have been avoided. In point of fact, it should have been avoided. I want to rise also, as an aide, to say that I am pleased that the Wolf-Hoyer-Davis-Wynn-Morellas-Moran-Gekas language indicating the Federal employees, as they have every time the Congress has failed to do its job and the President has failed to sign a CR, has shut down, that we have repaid, we have paid those folks, and that is good.

But we ought to realize, as well, that this is not a debate about commas or dots or even contracts. Yes, it is important that each of us keep our word, but it is, in the final analysis, an argument about the vision for this country and about people, and how people will be affected, how seniors will be affected on Medicare, how students will be affected, and how families try to get a college education to compete in world markets; a vision of how we can best defend this Nation and lend credibility to this country’s role in maintaining international security.

That is why the President was so concerned about including in the language those references to Medicare and Medicaid, education, agriculture, the national defense, veterans, and the environment; because in the final analysis, whether we call it a CR or reconciliation, almost all Americans do not understand, they do understand that when they get up in the morning, they are worried their health care and that of their families, they are worried about their children’s safety as they go to school and that of 18- and 19- and 20-year-olds’ ability to get a college education. These are things that mean something very real to the American public.

This CR will neither balance the budget nor ensure its balance. What it will say, however, is that we will get the Government back to work. Then we will deal with the reconciliation bill shortly. We will talk about the priorities of the Republican party and the priorities of the Democratic party.

We differ. We differ as to whether there ought to be a tax cut for some of the wealthiest, and yes, some of the not so wealthy in this country at the expense of working Americans earning under $28,000 having a tax increase, in effect. That is what we are going to discuss.

The American public, I believe, thinks that is an important debate, because they know in the final analysis it is not about CR’s, it is not about reconciliation, it is not about budgets per se, it is about people. It is about a vision of America. That is what the President was talking about. Very frankly, I think it is what all of us are talking about on both sides of the aisle.

I have time to get on with that debate, now that we have overcome the shameful shutdown, the expensive shutdown, the inappropriate shutdown, the unintended shutdown of the Federal Government because we were trying to force the President to retain from his commitment and his vision. That is a vision we will now debate. I ask for support of this continuing resolution.

Mr. LIVINGSTON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. HASTERT].

(Mr. HASTERT asked and was given permission to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, I stand in support of the balanced budget, the CR, and ask for a yes vote.

Mr. Speaker, the President’s men have been making the circuit of the talk shows looking to tell the American people that the words of this agreement don’t mean what they say.

Mr. Speaker, the words are plain and simple. When the President signs this agreement, he is saying without reservation that he will balance the budget in 7 years—not 8, not 9, not 10—he is saying he will do it in 7 years. Second, when he signs, the President is agreeing that it will be the independent Congressional Budget Office that determines whether or not the numbers are real.

Mr. Speaker, there is other words in this agreement. They restate our commitment to ensuring Medicare solvency, reforming welfare, providing adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. In addition there is the requirement to adopt tax policies that help working families and stimulate future economic growth.

Mr. Speaker, these words about our principles and priorities are important, and we will do our best to live up to them. But we need to be very clear that we are not agreeing to let those words be an excuse for not balancing the budget in 7 years with real honest numbers.
Mr. Speaker, nothing in this agreement allows for any excuse. We are saying, in law, that we will balance the budget in 7 years.

Mr. Speaker, when we vote for this measure, we give our word that it will happen. Likewise, by signing this agreement, the President gives his word that he will not have excuses—no reinterpretations—no outs—just a balanced budget with honest numbers in 7 years.

Mr. Speaker, if the President doesn't understand that it was his word, he should sign this bill. And if he doesn't sign it, and I hope he will, let's not stand up for American people by having an army of the President's spin doctors running all over the country in the next few days telling us it really means something else. Let's stop the political games and get the job done.

Mr. Speaker, the Republican majority has written and passed in this Congress its 7-year balanced budget. We've proved it can be done. After the President signs this agreement into law making his commitment to balancing the budget in 7 years, he should send us a detailed budget of his own so the negotiation can begin.

Mr. Speaker, the time for sound bites is over. It's time for the President to translate his principles into specific budget numbers so the negotiation can seriously begin.

The SPEAKER pro tempore. The gentleman from Louisiana, Mr. LIVINGSTON, has 29 minutes remaining.

Mr. LIVINGSTON. Mr. Speaker, I yield myself the remainder of my time. Mr. Speaker, in the little time I have left, let me close this debate by thanking all of the members of both sides for what I thought was a fine debate, and I join with the preceding Speaker, the gentleman from Maryland [Mr. HOYER], by saying that I, too, am glad that we are putting the Federal workers back to work.

The fact is, though, there is a fundamental difference between the parties that brought us to where we are. I, for one, was a little concerned by the media portrayal which would say, "A pox on both your houses. It is a temper tantrum by the Congress or by the President or by one party or another. They could not get along."

The fact is that this debate that we have been having for the last several weeks is a real, a meaningful, a fundamental representation of difference between the approaches, the vision, as the gentleman said, of the two parties. For the last 40 years, the Democrats have controlled the House of Representatives, and, hence, the legislative body of Government.

In those 40 years, they have opted for higher taxes, higher regulations, greater bureaucracy, greater central control, and ultimately, less freedom for the American taxpayer and for the American citizen in general.

The Republican, as the minority party, has opted for more freedom, less taxes, less bureaucracy, less central control, but we have lost the argument until this last year.

As of this last year, we are winning the argument, and yesterday the President of the United States capitulated, yes, capitulated, when he said OK to a 7-year balanced budget, a 7-year balanced budget, scored by the Congressional Budget Office. He has in effect said, "Okay, Congress. Time out. Let us get back to work. We will do it in 7 years."

Mr. Speaker, I would say that it is critically important that we stay on the glide path to a balanced budget, that we keep this Congress working according to the intent of yesterday's agreement. The business is not done. It is not settled. It is not finished. But if we don't do this now, there is a chance that we may not do it at all. Yesterday, our children and our grandchildren will have a fiscally sound country. The people of the United States will have lower interest rates. We will find it easier to finance our homes, to send our children to college, to prepare for retirement. The American people will be better off with less Government, less control, less bureaucracy, less taxation, and less regulation. I urge the adoption and passage of this resolution as a statement of continuing the continuation of this Congress towards a balanced budget by the year 2002.

Mr. MARTINI. Mr. Speaker, I rise today in support of the bipartisan compromise continuing resolution that will fully restore Federal Government operations and commit the President and this Congress to a balanced budget by 2002 using Congressional Budget Office [CBO] numbers.

One year ago we made a promise to our constituents that we would bring fiscal responsibility to the Federal Government. Today, we are keeping that promise. This agreement reflects a long awaited realization from the President that we must be serious about putting our fiscal house in order.

Now that the President and Congress appear to be on the same page I am hopeful that we can finally accomplish the task at hand.

Many will try to define the Federal Government shutdown and this compromise in terms of winners and losers. In my opinion, the only winner is the American people and our Nation's children.

With the national debt soaring towards $5 trillion, its good to see that Congress and the President are demonstrating the political courage to make the difficult choices and balance the budget.

For too many years Congress has made broken promises and half hearted attempts to balance the Federal budget. Time after time these attempts have failed because many have lacked the moral fortitude and dedication required to make the tough decisions.

We cannot continue to mortgage our country's future anymore. I am committed to staying the course for the sake of our children and for America's future.

During the next few weeks, we will negotiate in good faith with the administration in an effort to balance the budget.

The challenge before us is monumental, but I am confident that we will overcome the obstacles and produce a responsible fiscal agreement.

For the past year, I have worked hard to restore an attitude of fiscal fitness in the Congress. I am pleased that our resolve to have a judicious balanced budget time-line with specific CBO numbers has finally brought everyone under the same tent.

I am looking forward to the negotiations and urge my colleagues to support the resolution.

The SPEAKER pro tempore (Mr. EWING). All time has expired. Pursuant to the order of the House of today, the previous question is ordered. The question is on the motion offered by the gentleman from Louisiana [Mr. LIVINGSTON].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object on the ground that a quorum is not present and make a point of order a quorum is not present.

The SPEAKER pro tempore. Pursuant to the order of the House of today, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2099, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1996.

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 280 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 280
Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany, and the amendment reported from conference in disagreement on, the bill (H.R. 2099) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived.

The conference report and the amendment reported in disagreement shall be considered as read. The previous question shall be considered as ordered on a motion that the House insist on its disagreement to the amendment of the Senate numbered 63 to its final adoption without intervening motion except debate pursuant to clause 2(b)(1) of rule XXVII.

Mr. QUILLEN. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FURST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule waives all points of order to protect the conference report which provides appropriations for the Departments of Veteran's Affairs and Housing and Urban Development and independent agencies.

I am particularly pleased to see this piece of legislation moving to completion, because this is the bill which provides funding for programs to assist the veterans of this Nation.
These are the people who put their lives at risk to defend this Nation in its time of need.

The least we can do is live up to our obligation to provide health care for injuries suffered in battle and other assistance. Our veterans should always be a top priority for this, or any other, Congress.

This rule also provides that after the disposition of the conference report, there will be 1 hour of debate up to a position that the House insist on its position on an amendment reported in disagreement. The amendment deals with funding for the AmeriCorps Program, which puts so-called volunteers on the Federal payroll. The House position was to zero out the program. The Senate position was to provide an additional $6 million to close down the program.

This rule will give the House a chance to make its position on this issue perfectly clear.

Mr. Speaker, I would also like to commend the chairman of the Appropriations Subcommittee on VA-HUD, the gentleman from California [Mr. Lewis], and the ranking minority member, the gentleman from Ohio [Mr. Stokes], for all their hard work in putting this conference report together.

This is a fair rule, and I urge that the House support it.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume, and rise by rule to this rule because I cannot support this conference report. The funding levels in this bill reflect the Republican majority’s plans for balancing the budget in 7 years, but, unfortunately, those plans make unwarranted cuts in programs which protect the health and welfare of the American public.

Now, Mr. Speaker, I support balancing the budget, and I will be happy to do it in 7 years, but I cannot, Mr. Speaker, plan to balance my budget which decimates environmental protection programs and dismantles programs which provide housing for the poor, the elderly and the disabled.

Mr. Speaker, when the Committee on Rules met to consider this rule on Saturday, the gentleman from California [Mr. Lewis], the chairman of the HUD-Independent Agencies Subcommittee, explained that his Democratic colleagues from the House did not sign the conference report because they have not gotten over the fact that the money just is not there to support the programs they have funded in the past.

I submit, Mr. Speaker, that the real reason they did not sign this conference report is because the priorities established by the Republican majority overall will eviscerate the programs which make this country great in all the name of providing tax breaks for the wealthiest among us.

I do not think much of priorities which give money to those who need it least in trade for dirty air and polluted water.

My Republican colleagues are in the majority in this House and in the Senate, but, Mr. Speaker, I cannot believe that a majority of the American people truly support these policies. We all know how important it is to balance the Federal budget. That is not even an argument any more, but what is at issue is how we get there and who will pay the biggest price.

The Republicans say we must balance the budget to ensure the future of our children. I stand here and I wish them a world in which the air is foul and the water undrinkable is not much of a future.

Mr. Speaker, this conference report should be recommitted to conference and these skewed priorities should be realigned.

Mr. Speaker, I reserve the balance of my time.

Mr. QUIrRELL, Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Solomon], the distinguished chairman of the House Committee on Rules.

Mr. SOLomon, Mr. Speaker, I thank the gentleman, the distinguished chairman of the Committee on Rules, for yielding me this time, and I might point out the gentleman from Tennessee is one of the longest serving Members of this body and he has meant so much to me in the Committee on Rules in helping us to carry out our duties up there.

Mr. Speaker, I rise in support of this conference report because it is a good conference report. It is also one of the most difficult to bring to this floor by our Committee on Appropriations. My good friend, the gentleman from Texas, MARTIN FROST, that serves on the Committee on Rules with me, mentioned that the House Democrats did not sign this conference report.

I want to point out, however, that the Senate Republicans and all Senate Democrats but one signed this conference report. They did it because it is a worked-out document. It is a compromise. They were not able to come up with considering the amount of allocations that are available to them. The House Democrats, as I understand it, did not sign it because there was not enough room or not enough money for housing in this bill.

Now, what is this bill before us now? This is the appropriations bill for the Department of Veterans Affairs, the Department of Housing and Urban Development, and, ladies and gentlemen, a whole host of agencies and bureaus and commissions like NASA, a very important one; like the Environmental Protection Agency, AmeriCorps comes under here, that is the National Service Act; the Consumer Product Safety Commission; the Federal Emergency Management Agency; National Science Foundation; the Selective Service System; and the Federal Deposit Insurance Corporation, and I could go on and on, and on. In other words, this bill contains all of the other agencies lumped into one.

What does that mean? For example, it means the Department of Veterans Affairs has to fight for its fair share from all of these other agencies and departments. Well, Mr. Speaker, it should be pointed out that in this appropriation bill before us the only section that has an increase is the Department of Veterans Affairs. Almost all of that increase comes in the area of the medical care delivery system. In other words, that is for the hospitals and the outpatient services for the veterans of this Nation.

I just to point out, the medical delivery care portion of this budget last year was $13.9 billion. But this year we have come up with $14.4 billion. In this conference report that is a $500 million increase.

I think all of these things need to be pointed out; and that in fighting for their fair share, this is good for all of the veterans programs, and that is why I am standing up here as the former ranking member of the Committee on Veterans’ Affairs for many years.

I want to just tell all the Members that, they may not agree with the funding for the other agencies, like the Environmental Protection Agency or NASA or the Department of Housing and Urban Development, but they can be sure we have done what is right by the veterans of the Nation in providing medical care for them, and that is why I strongly urge support for this rule that will bring the appropriation bill to this floor, and I thank the gentleman for giving me the time to finish.
A lot of people in my district rely on these programs, programs that my Republican colleagues have decided to cut or eliminate entirely. They rely on them, as do all of us, to make sure our waters are clean. They rely on them to make sure children from low-income families have somewhere to sleep at night. They rely on them to make sure our fruit and vegetables are free of contaminants, and our air is good enough to breathe.

This bill will cripple or eliminate our ability to implement laws that were enacted over the past decade with strong bipartisan support, and I urge my colleagues to vote "no."

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. Goss], a very valuable Member of the House Committee on Rules.

(Mr. Goss asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank the chairman emeritus, the distinguished gentleman from Tennessee [Mr. QUILLEN], for yielding the time and for those nice compliments.

Mr. Speaker, I rise in support of this rule and I commend my colleagues on the VA-HUD Appropriations Subcommittee—especially Chairman JERRY LEWIS—for their perseverance in bringing us this final product. I am particularly gratified that the subcommittee—especially considering these enormously tough budgetary times—has recognized the value and common sense in allocating veteran's resources where the veterans are. For years Florida has seen its veterans' population increase steadily, as veterans from up North and the Midwest recognize the splendid quality of life and how by climate the sunshine State offers. But the shift of resources to care for those veterans—particularly the health care component of veterans' services—has not kept pace. Incredibly, over the years, the resources for veterans have repeatedly been distributed to places where the veterans aren't.

Meanwhile, in my district of south-west Florida, our more than 150,000 veterans have been grossly underserved. This bill, while demonstrating the reality of declining Federal spending overall, does, at least, make good on a commitment we have received from two successive administrations—that the tremendously overburdened outpatient clinic that serves all southwest Florida will be upgraded and expanded to meet the need that exists.

I am delighted that the saga of the unmet promises to southwest Floridians appears, finally, to be coming to a close.

On another note, I am pleased that the conferees adhered to the strong instruction of this House not to allow this important bill to be bogged down with highly controversial—and in some cases excessive—riders designed to restrict the authority of the EPA. That debate—and the larger questions of regulation and environmental common sense—will continue, I know, another day and in another way.

Mr. Speaker, this is a fair rule—and it allows us to get this tremendously important bill to the President, so he may sign it and we will be one step closer to ending the budget impasse.

I urge my colleagues to support this rule and the bill, and I appreciate those involved for their efforts at getting it this far.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I rise in opposition to this rule which tramples on usual procedure and makes a mockery of the rights of the minority.

Mr. Speaker, this conference report was not filed until nearly midnight last Friday. The Rules Committee met less than 12 hours later on Saturday and reported out this rule. Now, we are asked to consider this complicated and controversial measure without adequate time for Members to know what is in the legislation. Among other things, the rule waives the 3-day slip. Slip copies of the conference report have only been available for a few hours.

Not only does this rule waive all points of order against the conference report, but it includes a provision requiring the House to insist on its position with regard to an amendment in disagreement, precluding any other motions for further debate.

This rule continues the highly questionable practice of including nearly all amendments inside the conference report instead of proceeding with the regular order and reporting in technical disagreement all amendments that violate House rules. This allows all manner of legislation and nongermane material to be included—and that is exactly what has happened. One amendment contains 20 pages of legislation. All material under the purview of the authorizing committee. It has no business in an appropriation bill. It is my understanding that the chairman of the authorizing subcommittee in the House has serious reservations with the extent of the legislative language included in the conference agreement.

Mr. Speaker, this is a bad rule, providing a bad procedure for a flawed bill. I urge its defeat.

Mr. QUILLEN. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I rise in opposition to the rule, even though I look forward to the debate that we are going to have on this bill.

Mr. Speaker, we are having a great problem in our Nation understanding exactly where we have got to go from here. I welcome the advances that have been made to resolve the problems between the President and Republicans, but because of the vagueness in the language, and because everyone seems to believe that everyone is protected, I would just like to see how the people and those that are homeless, those that need help, are going to be able to say that we are going to balance the budget in 7 years, which I think makes a lot of sense, that we are going to protect the people that are in this resolution, which I think makes a lot of sense, and at the same time deal with these tax cuts that the Republicans and the President of the United States are talking about.

Mr. Speaker, if what this is going to mean is that we are going to take care of those who need help the most, and then we are going to balance the budget and hopefully find that there are resources there to reduce taxes, then certainly I would really enthusiastically support this concept, but I certainly hope that what we are not talking about is locking in the concept that at a time when we are trying to balance the budget and protect people's programs that at the same time we move forward and give tax cuts to people who are not screaming for them.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time at this point.

Mr. Speaker, I include for the RECORD the following material:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

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<td>H. Res. 6</td>
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| H.R. 96 | Disappearing MNF for China | H. Res. 193 | | |
| H.R. 2002 | Transportation Appropriations | H. Res. 194 | | |
Mr. Speaker, we urge a vote against this rule. It has priorities that should not stand. We oppose the rule and oppose the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, this is a good rule and it should be adopted. I support it and ask all of the Members to vote “yes” on the rule and on the conference report.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.
The previous question was ordered. The resolution was agreed to. A motion to reconsider was laid on the table.

CONCLUDING IN SENATE AMENDMENT TO H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. HOBSON. Mr. Speaker, pursuant to House Resolution 279, I call up from the Speaker’s table the bill (H.R. 2491), to provide for reconsideration pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, with a Senate amendment thereto, and I offer a motion. The Speaker reads the title of the bill. The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Strike out all after the enacting clause and insert:

The text of the Senate amendment is as follows:

Title XII—Teaching hospitals and graduate medical education; asset sales; disaster relief; and the Agricultural Market Transition Program

Subtitle C—Agricultural Market Transition Program

Program

Sec. 1101. Short title. This Act may be cited as the “Balanced Budget Act of 1995.”

Sec. 1102. Definitions.

Sec. 1103. Production flexibility contracts.

Sec. 1104. Nonrecourse marketing assistance payments.

Sec. 1105. Payment limitations.

Sec. 1106. Peanut program.

Sec. 1107. Animal disease programs.

Sec. 1108. Administration.

Sec. 1109. Elimination of permanent price support authority.

Sec. 1110. Effect of amendments.

Subtitle B—Conservation

Sec. 1121. Conservation.

Sec. 1122. Conservation Reserve Program.

Sec. 1123. Agricultural Market Promotion and Export Programs.

Sec. 1124. Market promotion program.

Sec. 1125. Export enhancement program.

Subtitle D—Miscellaneous

Sec. 1141. Crop insurance.

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(2) ADVANCE PAYMENTS.—

(A) FISCAL YEAR 1996.—At the option of the owner or operator, 50 percent of the contract payment for fiscal year 1996 shall be made not later than on the date on which the owner or operator enters into a contract.

(B) SUBSEQUENT FISCAL YEARS.—At the option of the owner or operator for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15.

(3) QUANTITIES AVAILABLE FOR CONTRACT PAYMENTS FOR EACH FISCAL YEAR.—

(1) IN GENERAL.—The Secretary shall expend on a fiscal year basis the following amounts to satisfy the obligations of the Secretary under all contracts:

(A) For fiscal year 1996, $5,570,000,000.
(B) For fiscal year 1997, $5,385,000,000.
(C) For fiscal year 1998, $5,800,000,000.
(D) For fiscal year 1999, $5,603,000,000.
(E) For fiscal year 2000, $5,130,000,000.
(F) For fiscal year 2001, $4,130,000,000.
(G) For fiscal year 2002, $4,008,000,000.

(2) ALLOCATION.—The amount made available for a fiscal year under paragraph (1) shall be allocated:

(A) For wheat, 26.26 percent.
(B) For corn, 46.22 percent.
(C) For soybeans, 5.11 percent.
(D) For barley, 2.16 percent.
(E) For oats, 0.15 percent.
(F) For upland cotton, 11.63 percent.
(G) For upland lint cotton, 0.02 percent.
(H) For lentils, mung beans, and dry peas on contract acreage.

(3) ADJUSTMENT.—The Secretary shall adjust the amounts allocated for each contract commodity under paragraph (2) for each fiscal year as follows:

(A) Subtracting an amount equal to the amount, if any, necessary to satisfy payment requirements under sections 1018, 1038, 1058, and 1078 of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)) for the 1994 and 1995 crops of the commodity;

(B) Adding an amount equal to the sum of all producer repurchases of deficiencies payments received under section 114(a)(2) of the Act as so in effect for the commodity;

(C) Adding an amount equal to the sum of all contract payments withheld by the Secretary, at the request of producers, during the preceding fiscal year as an offset against producer repurchases of deficiencies payments otherwise required under section 114(a)(2) of the Act as so in effect for the commodity; and

(D) Adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under subsection (h) for the commodity.

(4) TERMINATION OF CONTRACT PAYMENTS.—

(1) INDIVIDUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

(A) 85 percent of the contract acreage; and

(B) the program payment yield.

(2) ANNUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—The payment quantity of each contract commodity for each fiscal year shall be equal to the product of—

(A) the program payment yield;

(B) the payment rate in effect under paragraph (3); and

(C) the payment rate in effect under paragraph (3).

(5) ASSIGNMENT OF CONTRACT PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Power Act (as so in effect for the commodity) shall apply to contract payments under this subsection. The owner or operator making the transfer or the person to whom the transfer is assigned, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this paragraph.

(6) SHARING OF CONTRACT PAYMENTS.—The Secretary shall provide for the sharing of contract payments among the owners and operators subject to the contract on a fair and equitable basis.

(g) PAYMENT LIMITATION.—The total amount of contract payments made to a person under a contract during any fiscal year may not exceed the payment limitations established under section 1105.

(h) EFFECT OF VIOLATION.—

(1) TERMINATION OF CONTRACT.—Except as provided in paragraph (2), if an owner or operator subject to a contract violates the conservation plan for the farm containing eligible farm-land under the contract, the operator'll be entitled to the extension of the period of the violation, together with interest on the contract payments as determined by the Secretary.

(2) REFUNDS OR ADJUSTMENT.—If the Secretary determines that a violation does not warrant termination of the contract under paragraph (1), the Secretary may require the owner or operator subject to the contract to—

(A) to refund to the Secretary that part of the contract payments received by the owner or operator during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(B) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(3) FORECLOSURE.—An owner or operator subject to a contract to a contract with the Secretary may make repayments to the Secretary of amounts received under the contract if the amount received under the contract is greater than or equal to the amount determined by the Secretary.

(4) REVIEW.—A determination of the Secretary under this subsection shall be considered to be an administrative determination for purposes of the availability of administrative review of the determination.

(5) TRANSFER OF INTEREST IN LANDS SUBJECT TO CONTRACT.—

(1) EFFECT OF TRANSFER.—Except as provided in paragraph (2), the transfer by an owner or operator subject to a contract of the rights and interests of the owner or operator in the contract acreage shall result in the termination of the contract with respect to the acreage, effective on the day of the transfer, unless the transfer of the acreage agrees with the Secretary to assume all obligations of the contract. At the request of the transferee, the Secretary may modify the transfers to facilitate the achievement of the objectives of this section as determined by the Secretary.

(2) EXCEPTION.—If an owner or operator who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment in accordance with regulations prescribed by the Secretary.

(i) PLANTING FLEXIBILITY.—

(1) LIMITATIONS.—

(A) In General.—Except as provided in subparagraph (2), the planting of any fruit or vegetable, and unlimited haying and grazing, shall be permitted on more than 15 percent of the contract acreage.

(B) EXCEPTION.—Subparagraph (A) shall not apply to the planting of contract commodities, lentils, mung beans, and dry peas on contract acreage.

(iii) ALFALFA.—The planting of alfalfa on contract acreage is unlimited, except that the quantity of acreage on which the contract payment of the owner or operator would otherwise be based shall be reduced for each acre planted to alfalfa by the limitation in effect under paragraph (2)(A) for the contract.

(4) HAYING AND GRAZING.—

(A) In General.—The Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for alfalfa, lentils, and mung beans on contract acreage. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b) for the immediately preceding 5 crops of each loan commodity.

(B) ELIGIBLE PRODUCTION.—The following production shall be eligible for a marketing assistance loan under this section:

(A) In the case of a marketing assistance loan for a contract commodity, any production by a producer who has entered into a production flexibility contract.

(B) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(j) LOAN RATES.—

(1) WHEAT.—

(A) LOAN RATE.—Subject to subparagraph (b), the loan rate for a marketing assistance loan for wheat shall be—

(i) not less than 85 percent of the simple average price received during the preceding marketing period for wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; and

(ii) not more than $2.58 per bushel.

(B) STOCKS TO USE RATION ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

A) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year; or

B) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

C) less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop.
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(C) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan rate for wheat under subparagraph (B) shall not be considered in determining the loan rate for wheat for subsequent years.

(2) LIMITATION ON REIMBURSEMENT.—The adjustment under subparagraph (B) may not exceed the difference between—

(i) the Friday through Thursday average price for the lowest-priced growth as quoted for Middling 1 3⁄4-inch cotton delivered C.I.F. Northern Europe; and

(ii) the Northern European price.

(4) E XTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan for extra long staple cotton shall be at the prevailing world market price for extra long staple cotton delivered C.I.F. Northern Europe.

(B) THE LOAN RATE FOR MARKETING ASSISTANCE LOANS.—

(A) IN GENERAL.—During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) is below the loan rate for upland cotton under subsection (b) but not less than $0.7965 per pound, the loan rate for a marketing assistance loan for upland cotton shall be $4.92 per bushel.

(B) SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.—

(1) FIRST HANDLER MARKETING CERTIFICATES.—

(A) IN GENERAL.—During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) is below the loan rate for upland cotton but not less than $0.5150 per pound, the Secretary may prescribe, shall make payments, to first handlers of upland cotton (persons regularly engaged in buying or selling upland cotton) who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this paragraph. The payments shall be made in such amounts and subject to such terms and conditions as the Secretary may determine.

(B) PAYMENTS.—The Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, to first handlers of upland cotton (persons regularly engaged in buying or selling upland cotton) who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this paragraph. The payments shall be made in such amounts and subject to such terms and conditions as the Secretary may determine.

(2) V ALUE.—The value of each certificate or cash payment issued under subparagraph (B) shall be based on the difference between—

(i) the loan repayment rate for upland cotton; and

(ii) the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary.
any person receiving marketing certificates under this paragraph in the redemption of certificates for cash, or marketing or exchange of the certificates for agricultural commodities or products. Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this paragraph. Any restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this paragraph.

(E) DESIGNATION OF COMMODITIES AND PRODUCTS; CHARGES.—Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the issuance of the certificate by the Commodity Credit Corporation.

(F) DISPOSITION.—The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and products for certificates under this subsection from adversely affecting the income of producers of the commodities or products.

(G) OTHER REGULATIONS.—The Secretary shall establish such regulations prescribed by the Secretary, certificates issued to cotton handlers under this paragraph may be transferred to other handlers and persons approved by the Secretary.

(2) COTTON USER MARKETING CERTIFICATES.—(A) ISSUANCE.—Subject to subparagraph (D), during the period ending July 31, 2003, the Secretary shall issue marketing certificates to cash payments to domestic users and exporters for documented purchases by domestic users and exporters for the marketing or exchange of agricultural commodities by the Commodity Credit Corporation.

(B) TRANSFERS.—Under regulations prescribed by the Secretary, certificates issued to cotton handlers under this paragraph may be transferred to other handlers and persons approved by the Secretary.

(3) SPECIAL IMPORT QUOTA.—(A) ESTABLISHMENT.—The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, any such certificates may be transferred to other persons in accordance with regulations prescribed by the Secretary; (B) SPECIAL IMPORT QUOTA.—(1) QUANTITY.—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(C) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under subparagraph (A) and entered into the United States not later than 180 days after the date.

(D) OVERLAP.—A special quota period may be established to cover any period of 1 month that overlaps any existing quota period if required by subparagraph (A), except that a special quota period may not be established under this paragraph if a quota period has been established by the Secretary.

(E) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 231(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 2674(d));

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(F) DEFINITION.—In this paragraph, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(g) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(h) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(i) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (f)(3).

SEC. 1105. PAYMENT LIMITATIONS.

(A) LIMITATION ON PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS.—The total amount of contract payments made to a person under 1 or more production flexibility contracts during any fiscal year may not exceed $40,000.

(B) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—(1) LIMITATION.—The total amount of payments specified in paragraph (1) that shall be entitled to receive under section 1104 for contract commodities and oilsides during any fiscal year may not exceed $75,000.

(C) DESCRIPTION OF PAYMENTS.—The payments referred to in paragraph (1) are as follows:

(i) Any gain realized by a producer from re-paying a marketing assistance loan for a crop of any loan commodity at a lower level than the original loan rate established for the commodity under section 1104(b).

(ii) Any loan deficiency payment received for a loan commodity under section 1104(e).

(iii) Inapplicable to any other provisions regarding payment limitations. Paragraphs 1 through 10 of section 1101A through 1101C of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.) shall apply with respect to the application of payment limitations under this section.

(iv) CONFORMING AMENDMENTS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking "1997" each place it appears in paragraphs (1)(A), (1)(B), (2)(A) and (2)(A) and inserting "1995".

SEC. 1106. PEANUT PROGRAM.

(A) QUOTA PEANUTS.—(1) AVAILABILITY OF QUOTA PEANUTS.—The Secretary shall make nonrecourse loans available to producers of quota peanuts.

(B) LOAN RATE.—The national average quota loan rate for quota peanuts shall be 56 10 per ton.

(C) INSPECTION, HANDLING, OR STORAGE.—The loan amount may not be reduced by the Secretary for the cost of inspection, handling, or storage.

(D) LOCATION AND OTHER FACTORS.—The Secretary may make adjustments in the loan rate for location of peanuts and such other factors as are authorized by section 411 of the Agricultural Adjustment Act of 1938.

(E) ADDITIONAL QUOTA PEANUTS.—(1) IN GENERAL.—The Secretary shall make nonrecourse loans available to producers of additional peanuts at such rates as the Secretary determines to be in the public interest.
finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

(2) ANNOUNCEMENT.—The Secretary shall announce the loan rate for additional peanuts of each crop in the late December or early January following the marketing year for the crop for which the loan rate is being determined.

(c) AREA MARKETING ASSOCIATIONS.—

(A) IN GENERAL.—The Secretary shall make warehouse storage loans to each area marketing association under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a). The Secretary shall use funds collected under subsection (g) by the Secretary to carry out this subsection, 1 1/2 of the assessment shall be used in administrative and supervisory activities of the association under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(B) ADMINISTRATIVE AND SUPERVISORY ACTIVITIES.—Loans made to the association under this paragraph shall include such costs as the area marketing association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(C) ASSOCIATION COSTS.—Loans made to the association under this paragraph shall include such costs as the area marketing association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(2) POOLS FOR QUOTA AND ADDITIONAL PEANUTS.—

(A) IN GENERAL.—The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico. Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

(B) NET GAINS.—Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed by each producer. Net gains for peanuts in each pool shall consist of the following:

(i) QUOTA PEANUTS.—For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool.

(ii) ADDITIONAL PEANUTS.—For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts.

(iii) LOSSES.—Losses in quota area pools shall be covered using the following sources in the following order of priority:

(A) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The Secretary shall provide for a nonrefundable marketing assessment. The assessment shall be made on a per pound basis in an amount equal to 1.1 percent for each of the 1994 and 1995 crops, 1.25 percent for each of the 1996 through 1997 crops, and 1.5 percent for each of the 1998 through 2002 crops, of the national average loan rate for the applicable crop.

(B) FIRST PURCHASERS.—Exempt from the producer of the peanuts within the applicable marketing year, in the case of the 1991 through 1997 marketing years; and

(ii) collect from the producer a marketing assessment equal to the quantity of peanuts acquired by—

(i) in the case of each of the 1991 and 1992 crops, .5 percent of the applicable national average loan rate; and

(ii) in the case of the 1993 through 1997 crops, .65 percent of the applicable national average loan rate.

(i) pay, in addition to the amount collected under paragraph (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .5 percent of the applicable national average loan rate.

(ii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

(G) DEFINITION OF FIRST PURCHASER.—In this subsection, the term ‘first purchaser’ means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, the term means the person acquiring the peanuts from the Commodity Credit Corporation.

(3) OTHER PRIVATE MARKETINGS.—In the case of peanuts marketed by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

(4) LOAN PEANUTS.—In the case of peanuts acquired as collateral for a loan made under this section, 1/2 of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

(F) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

(4) CROPS.—Subsections (a) through (f) shall be effective only for the 1996 through 2002 crops of peanuts.

(i) MARKETING QUOTAS.—In general—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358-1 (7 U.S.C. 1358-1)—

(i) in the section heading, by striking ‘‘1991 through 1997 crops of’’;

(ii) in subsections (a)(1), (b)(1)(B), (b)(2)(A), (b)(2)(C), and (b)(3)(A), by striking ‘‘of the 1991 through 1997 crops of’’ each place it appears and inserting ‘‘marketing year’’;

(iii) in subsection (a)(3), by striking ‘‘1990’’ and ‘‘1990, for the 1995 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years’’;

(iv) in subsection (b)(1)(A)—

(i) by striking ‘‘each of the 1991 through 1997 marketing years’’ and inserting ‘‘marketing year’’;

(v) in subsection (b)(1)(B)—

(i) by striking ‘‘1991 through 1997 marketing years’’ and inserting ‘‘marketing year’’;

(ii) in clause (i), by inserting before the semi-colon the following: ‘‘the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years’’;

(vi) in subsection (b)(1)(C), by striking ‘‘1990’’ and ‘‘1990, for the 1995 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years’’;

(B) in section 358b (7 U.S.C. 1358b)—
(1) in the section heading, by striking “1991 through 1995 crops of”; and
(ii) in subsection (c), by striking “1995” and inserting “2002”; and
(c) in section 358(c)(7) (7 U.S.C. 1358c(d)), by striking “1995” and inserting “2002”; and
(d) in section 358e (7 U.S.C. 1359a)—
(i) in the section heading, by striking “for 1991 through 1995 of peanuts” and
(ii) in subsection (b), by striking “1997” and inserting “2002.”

(2) TREATMENT OF QUOTA FLOOR.—Section 358±1(a)(1) of the Act (7 U.S.C. 1358±1(a)(1)) is amended by striking the second sentence.

(3) TEMPORARY QUOTA ALLOCATION.—Section 358±1(b) (7 U.S.C. 1358±1(b)) is further amended by—
(A) in subsection (a)(1), by striking “domestic edible, seed,” and inserting “domestic edible use”;
(B) in subsection (b)(2)—
(i) in subparagraph (A), by striking “paragraph (B)” and subjecting it to; and
(ii) by striking subparagraph (B) and inserting the following:
“(B) TEMPORARY QUOTA ALLOCATION.—
“(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketings of peanuts in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph.

“(ii) in subparagraph (A), by striking the temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted under regulations prescribed by the Secretary.”
(B) TEMPORARY QUOTA ALLOCATION.—
“(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketings of peanuts in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph.

“(B) in subsection (b)(2)—

(4) UNDERMARKETINGS.—Part VI of subtitle B of title III of the Act is amended—
(A) in section 358±1(b) (7 U.S.C. 1358±1(b))—

“(i) the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm; and

(“(ii) the total farm poundage quota, excluding any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).”);

(iii) in paragraph (3)(B), by striking “including”—

and clauses (i) and (ii) and inserting “including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7);”;

and

(iv) by striking paragraphs (5) and (9); and

(B) in section 358a(e) (7 U.S.C. 1358a(e))—

“(i) in paragraph (1), by striking “including any applicable undermarketings” both places it appears;

(ii) in paragraph (1)(A), by striking “of undermarketings and”;

(iii) in paragraph (2), by striking “including any applicable undermarketings”;

and

(iv) by striking “including any applicable undermarketings”;

(5) DISASTER TRANSFERS.—Section 358±1(b) of the Act (7 U.S.C. 1358±1(b)), as amended by paragraph (4)(A)(iii), is further amended by adding at the end the following:

“(8) DISASTER TRANSFERS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), additional peanuts produced on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, or any other circumstance under the control of the producer, may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide.

“(B) LIMITATION.—Poundage of peanuts transferred under subparagraph (A) shall not exceed the difference between—

“(i) the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm; and

“(ii) the total farm poundage quota, excluding any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).”

(6) SEC. 1107. SUGAR PROGRAM.

(a) Sugarcane.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

(b) Sugar Beets.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

(c) Term of Loans.—(1) In General.—Loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

“(A) the end of 9 months; or

“(B) the end of the fiscal year.

(2) Supplemental Loans.—In the case of loans made under this section in the last 3 months of a fiscal year, the processor may repudiate the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

“(A) be made at the loan rate in effect at the time the second loan is made; and

“(B) mature in 9 months less the quantity of time that the first loan was in effect.

(d) Loan Type; Processor Assurances.—

(1) Recourse Loans.—In accordance with paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

(2) Nonrecourse Loans.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level in excess of 1,500,000 short tons raw value, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during the fiscal year shall be changed by the Secretary into a nonrecourse loan.

(3) Processor Assurances.—If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year to processors in order to change recourse to nonrecourse loans, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

(e) Marketing Assessment.—

(1) Sugar Cane.—For marketings of raw cane sugar during the 1996 through 2003 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

“(A) in the case of marketings during fiscal year 1996, 1.1 percent of the loan rate established under subsection (a) per pound of refined cane sugar, processed by the processor from domestically produced sugarcane or sugar-cane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

“(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.375 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugar-cane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

(2) Sugar Beets.—Effective for marketings of beet sugar during the 1996 through 2003 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

“(A) in the case of marketings during fiscal year 1996, 1.1794 percent of the loan rate established under subsection (a) per pound of sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

“(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.47425 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

(f) Collection.—

(1) In General.—A marketing assessment required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation not later than 30 days after the end of each calendar month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of the year shall be subject to assessment on the first day of the following fiscal year. The sugar shall be subject to a second assessment at the time that it is marketed.

(2) Manner.—Subject to paragraph (a), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

(3) Penalties.—If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to an appropriate civil penalty up to an amount determined by multiplying—

“(A) the quantity of cane sugar or beet sugar involved in the violation; by

“(B) the loan rate for the applicable crop of sugarcane or sugar beets.

(4) Enforcement.—The Secretary may enforce this subsection in a court of the United States.

(g) Information Reporting.—

(1) Duty of Processors and Refiners to Report.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugar, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

(2) Penalty.—Any person willfully failing or refusing to furnish any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

(h) Information Reports.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly
basis composite data on production, imports, distribution, and stock levels of sugar.

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

(i) CROPS.—This section (other than subsection (b)) shall be effective only for the 1996 through 2002 crops of sugar beets and sugar-cane.

SEC. 1108. ADMINISTRATION.

(a) COMMODITY CREDIT CORPORATION.—

(1) USE OF CORPORATION.—The Secretary shall carry out this subtitle through the Commodity Credit Corporation.

(2) SALARIES AND EXPENSES.—No funds of the Corporation shall be used for any salary or expense of any officer or employee of the Department of Agriculture in connection with the administration of payments or loans under this subtitle.

(b) ADMINISTRATION.—Title IV of the Agricultural Adjustment Act of 1938 (as added by section 1109) shall apply to the administration of this subtitle.

(c) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this subtitle.

SEC. 1109. ELIMINATION OF PERMANENT PRICE SUPPORT AUTHORITY.

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

(1) in title III—

(i) by striking parts II through V (7 U.S.C. 1326–1351); and

(ii) by striking subsection (a) (10) of section 321 (7 U.S.C. 1326j) and redesignating the provisions of such section as sections 321a, 321b, 321c, and 321d, respectively;

(2) by striking title IV (7 U.S.C. 1401–1407).

(b) TRANSFER OF CERTAIN SECTIONS.—The Agricultural Adjustment Act of 1938 (7 U.S.C. 1314–1314a) is redesignated as the Commodity Credit Corporation Act of 1938 and redesignated the transferred sections as sections 113, 113A, and 113B, respectively.

(c) CONSOLIDATION.—Sections 111, 201(c), and 204 (7 U.S.C. 1445f, 1446(c), 1446e) are redesignated as sections 303, 306, and 307, respectively.

(d) DESIGNATION.—Sections 403, 405, 407, and 422 (7 U.S.C. 1423, 1425, 1427, 1431a) are redesignated as sections 315A, 315B, 315C, and 315D, respectively.

(e) ROUNDS.—Sections 411, 412, 413, 414, and 415, respectively, are redesignated as sections 315A, 315B, 315C, 315D, and 315E, respectively.

(f) DESIGNATION.—Section 416 (7 U.S.C. 1431) is redesignated as section 317A, respectively.

(g) CONFORMING AMENDMENTS.—The Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in section 306 (as transferred and redesignated by subsection (b)(1)(B)) by striking "tillage" and inserting "residue management"; and

(2) by striking section 411 (as transferred and redesignated by subsection (b)(1)(C)) and inserting the following:

TITLE IV—ADMINISTRATION OF LOANS

SEC. 411. LIMITATIONS FOR GRADE, TYPE, QUALITY, LOCATION, AND OTHER FACTORS.

The Secretary may make such adjustments in the announcement of loan rates for a commodity as the Secretary considers appropriate to reflect differences in grade, type, quality, location, and other factors.

SEC. 412. EFFECT OF AMENDMENTS.

(a) EFFECT ON PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any crop for which the Secretary determines is needed to protect the most cost effective manner, water, soil, or related resources from degradation due to livestock production.

SEC. 1240A. ESTABLISHMENT AND ADMINISTRATION OF LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM.

(a) ESTABLISHMENT.—

(i) In general.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators who enter into contracts with the Secretary, through a livestock environmental assistance program.

(ii) Eligible Practices.—

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

(B) Land Management Practices.—An operator who performs a land management practice shall be eligible for technical assistance or incentive payments, or both.

(iii) Assistance.—

(A) Eligible Land.—Assistance under this chapter may be provided with respect to land that is used for livestock production and on which serious threats to related natural resources exist, as determined by the Secretary, by reason of the soil types, terrain, climatic, soil, topographic, flood, or salinity characteristics, or other factors or natural hazards.

(B) Selection Criteria.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area in which an agricultural operation is located, the Secretary shall consider—

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

(2) the maximization of environmental benefits per dollar expended.

(C) Application and Termination.—

(1) In general.—A contract between an operator and the Secretary under this chapter may—

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

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

(ii) Duties of Operators and Secretary.—The Secretary may prescribe, and technical assistance, participating operators shall comply with all terms and conditions of the contract and a plan, as established by the Secretary.

(iii) Structural Practices.—

(C) COMPETITIVE OFFER.—The Secretary shall administer a competitive offer system for operators proposing to receive cost-sharing payments in exchange for the implementation of 1 or more structural practices by the operator. The competitive offer system shall consist of—

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

(B) the evaluation of the offer in light of the selection criteria established under subsection (a) (4) and the project cost of the proposal, as determined by the Secretary.

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

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

(F) Cost-Sharing, Incentive Payments, and Technical Assistance.—
(1) Cost-sharing payments.—

(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be for more than 50 percent of the projected cost of each practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government, or a nonprofit or profit-seeking organization, for the purpose of facilitating the implementation of the practice.

(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility on land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1, 2, or 3.

(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices to be implemented on land subject to a contract entered into under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1, 2, or 3.

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

(3) TECHNICAL ASSISTANCE.—

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

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

(F) LIMITATION ON PAYMENTS.—

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

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

(B) $50,000 for any multicycle year.

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

(A) defining the term ‘person’ as used in paragraph (1); and

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

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

(c) CONFORMING AMENDMENTS.—

(1) COMMODITY CREDIT CORPORATION CHARTER ACT.—Section 5(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(g)) is amended—

(i) in subsection (a)(1), by striking ‘‘2000’’ and inserting ‘‘2002’’.

(ii) in subsection (a)(2), by striking ‘‘2000’’ and inserting ‘‘2002’’.

(2) APPROPRIATIONS.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended by adding at the end the following:

‘‘(6) R EPAYMENT OF COST SHARE.—A person that waives any eligibility for emergency crop loss assistance in connection with the crop that waives any eligibility for emergency crop loss assistance in connection with the crop that was subject to a fee under this subsection fails to prescribe.

(6) REPAYMENT OF COST SHARE.—A person that waives any eligibility for emergency crop loss assistance in connection with the crop that was subject to a fee under this subsection fails to prescribe.

(3) STATUS OF FEES.—Fees collected under this subsection by any person on behalf of the Secretary are held in trust for the United States and shall be remitted to the Secretary in such manner and at such times as the Secretary may prescribe.

(4) LATE PAYMENT PENALTIES.—If a person collects a fee under this subsection fails to pay the fee when due, the Secretary shall assess a late payment penalty, and the overdue fees
shall accrue interest, as required by section 3717 of title 31, United States Code.

"(5) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.

(A) ESTABLISHMENT.—There is established in the Treasury of the United States a no-year fund, to be known as the ‘Agricultural Quarantine Inspection User Fee Account’, which shall contain all of the fees collected under this subsection and late payment penalties and interest charges collected under paragraph (4) through fiscal year 1996.

(B) USE OF ACCOUNT.—For each of the fiscal years 1996 through 2002, funds in the Agricultural Quarantine Inspection User Fee Account shall be available to pay such amounts as may be provided in advance in appropriations Acts, to cover the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. Amounts made available under this subpart shall be available until expended.

(C) EXCESS FEES.—Fees and other amounts collected under this subsection in any of the fiscal years 1996 through 2002 in excess of $100,000,000 shall be available for the purposes specified in subparagraph (B) until expended, without further appropriation.

(6) USE OF AMOUNTS COLLECTED AFTER FISCAL YEAR 2002.—Notwithstanding any other provision of law, the unobligated balance in the Agricultural Quarantine Inspection User Fee Account and fees and other amounts collected under this subsection after December 31, 2002, shall be transferred to the Department of Agriculture accounts that incur the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. The fees and other amounts shall remain available to the Secretary until expended without fiscal year limitation.

(7) STAFF YEARS.—The number of full-time equivalent positions in the Department of Agriculture attributable to the provision of agricultural quarantine and inspection services and the administration of this subsection shall not be counted toward the limitation on the total number of full-time equivalent positions in all agencies specified in section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 5 U.S.C. 3101 note) or other limitations on the total number of full-time equivalent positions.

SEC. 1403. COMMODITY CREDIT CORPORATION INTEREST RATE.

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

TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

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Title II—Banking, Housing, and Related Provisions

Subtitle A—Financial Institutions

Sec. 2011. SPECIAL ASSESSMENT TO CAPITALIZE SAIF

(a) IN GENERAL.—Except as provided in subsection (f), the Board of Directors shall impose a special assessment on the SAIF-assessable deposits of each insured depository institution at a rate applicable to all such institutions in the manner required under subsection (a).

(b) FACTORS TO BE CONSIDERED.—In carrying out subsection (a), the Board of Directors shall base its determination on—

(1) the monthly Savings Association Insurance Fund balance determined under section 3717(c) of title 12 of the United States Code.

(2) data on insured deposits reported in the most recent reports of condition filed not later than 70 days before the date of enactment of this Act by depository institutions.

(3) any other factors that the Board of Directors deems appropriate.

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

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

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

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

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

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

(e) ASSESSMENT DEPOSITED IN SAIF.—Notwithstanding any other provision of law, any assessment deposited in the Savings Association Insurance Fund shall be treated as a deposit in the Savings Association Insurance Fund.

(f) EXEMPTIONS FOR CERTAIN INSTITUTIONS.—(1) EXEMPTION IN GENERAL.—The Board of Directors may exempt any insured depository institution from paying the special assessment imposed under this subsection if the Corporation determines that the exemption would reduce the risk to the Savings Association Insurance Fund.

(2) EXEMPT INSTITUTIONS REQUIRED TO PAY ASSESSMENTS AT FORMER RATES.—Any insured depository institution that is exempt from paying the special assessment imposed under this subsection shall, within 60 days after the date of enactment of this Act, pay to the Corporation an amount equal to the product of—

(A) 1.095 times the special assessment that would have been imposed on the institution under this subsection if the Corporation had not exempted the institution; and

(B) the number of full semiannual periods remaining between the date of the payment and the date of enactment of this Act.

(3) DETERMINATION.—The amount paid, during any calendar year from the date of enactment of this Act, by insured depository institutions that are exempt from paying the special assessment imposed under this subsection shall be—

(A) the sum of—

(i) the amounts paid by insured depository institutions that are exempt from paying the special assessment imposed under this subsection; and

(ii) the amounts paid by insured depository institutions to the Corporation under paragraph (2) during calendar years 1998 and 1999; and

(B) paid to the Corporation on the date of enactment of this Act.

(4) EXEMPT INSTITUTIONS REQUIRED TO PAY ASSESSMENTS AT FORMER RATES.—(A) IN GENERAL.—The Corporation may announce, an amount equal to the product of—

(A) the special assessment that the Corporation determined would have been imposed on the institution under this subsection if the Corporation had not exempted the institution; and

(B) the number of full semiannual periods remaining between the date of the payment and December 31, 1999.

(5) GENERAL PROVISIONS.—(A) ANNUAL ADJUSTMENT.—(i) The Corporation shall adjust the special assessment annual adjustment factor determined under paragraph (2) for any calendar year during calendar years 1998 and 1999 (Other than calendar year 1999) in the manner required under paragraph (2) and—

(B) LIMITATION ON SPECIAL ASSESSMENTS.—Any special assessments made under this subsection shall be limited in amount to the following:

(i) Prior to January 1, 1993; if—

(I) it directly held SAIF-assessable insured deposits prior to that date; or

(ii) it succeeded to, acquired, purchased, or otherwise holds any SAIF-assessable deposits as of the date of enactment of this Act that were SAIF-assessable deposits prior to January 1, 1993.

(ii) it held or held SAIF-assessable deposits prior to that date; or

(iii) it held SAIF-assessable deposits that of any such institution that were held SAIF-assessable deposits prior to January 1, 1993.

(6) EXEMPT INSTITUTIONS REQUIRED TO PAY ASSESSMENTS AT FORMER RATES.—(A) IN GENERAL.—The Corporation may announce, an amount equal to the product of—

(A) the special assessment that would have been imposed on the institution under this subsection if the Corporation had not exempted the institution; and

(B) the number of full semiannual periods remaining between the date of the payment and December 31, 1999.

(7) EXEMPT INSTITUTIONS REQUIRED TO PAY ASSESSMENTS AT FORMER RATES.—(A) IN GENERAL.—The Corporation may announce, an amount equal to the product of—

(A) the special assessment that the Corporation determined would have been imposed on the institution under this subsection if the Corporation had not exempted the institution; and

(B) the number of full semiannual periods remaining between the date of the payment and December 31, 1999.

(8) GENERAL PROVISIONS.—(A) ANNUAL ADJUSTMENT.—(i) The Corporation shall adjust the special assessment annual adjustment factor determined under paragraph (2) for any calendar year during calendar years 1998 and 1999 (Other than calendar year 1999) in the manner required under paragraph (2) and—

(B) LIMITATION ON SPECIAL ASSESSMENTS.—Any special assessments made under this subsection shall be limited in amount to the following:

(i) Prior to January 1, 1993; if—

(I) it directly held SAIF-assessable insured deposits prior to that date; or

(ii) it succeeded to, acquired, purchased, or otherwise holds any SAIF-assessable deposits as of the date of enactment of this Act that were SAIF-assessable deposits prior to January 1, 1993.

(ii) it held or held SAIF-assessable deposits prior to that date; or

(iii) it held SAIF-assessable deposits that of any such institution that were held SAIF-assessable deposits prior to January 1, 1993.
(2) 1ST ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay an assessment of 50 percent of the amount of the special assessment that would otherwise be due under subsection (a) by the date on which such special assessment is otherwise due under subsection (d). (3) 2ND ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay a 2d assessment, by the date established by the Board of Directors in accordance with paragraph (4), in an amount equal to the product of 51 percent of the rate determined by the Board of Directors under subsection (a) for determining the amount of the special assessment imposed by the institution on March 31, 1996, or such other date in calendar year 1996 as the Board of Directors determines to be appropriate. (4) DUE DATE OF 2D ASSESSMENT.—The date established by the Board of Directors for the payment of the assessment under paragraph (3) by a depository institution shall be the earliest practicable date which the Board of Directors determines to be appropriate, which is at least 15 days after the date used by the Board of Directors under paragraph (3). (5) SUPPLEMENTAL SPECIAL ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay a supplemental special assessment, at the same time the payment under paragraph (3) is made, in an amount equal to the product of— (A) 30 percent of the rate determined by the Board of Directors under subsection (a) for determining the amount of the special assessment; and (B) 95 percent of the amount by which the SAIF-assessable deposits used by the Board of Directors for determining the amount of the 1st assessment under paragraph (2) exceeds, if any, the SAIF-assessable deposits used by the Board of Directors for determining the amount of the 2d assessment under paragraph (3). (h) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN BANK INSURANCE FUND MEMBER BANKS.— (1) IN GENERAL.—For purposes of computing the special assessment imposed under paragraph (f) with respect to an acquired savings association, the amount of deposits of such association which were insured by the Federal Deposit Insurance Corporation shall be transferred to the Deposit Insurance Fund and the Savings Association Insurance Fund shall cease. (b) SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.— (1) IN GENERAL.—Immediately before the merger of the Federal Deposit Insurance Corporation and the Savings Association Insurance Fund, if the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which that reserve ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Deposit Insurance Fund, established under section 11(a)(5) of the Federal Deposit Insurance Act, as amended by this section. (2) DEFINITION.—For purposes of this subsection, the term "reserve ratio" means the ratio of the net worth of the Savings Association Insurance Fund to aggregate estimated insured deposits held in all Savings Association Insurance Fund members. (c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1, 1998. If no insured depository institution is a savings association on that date. (d) TECHNICAL AND CONFORMING AMENDMENTS.— (1) DEPOSIT INSURANCE FUND.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended— (A) by redesignating subparagraph (B) as subparagraph (C); (B) by striking subparagraph (A) and inserting the following:— (A) in the matter immediately preceding subparagraph (B) and (2) by striking at the end the following new subparagraph:— (K) ADJUSTMENT OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The amount determined under subparagraph (C)(i) for deposits acquired by March 31, 1995, shall be reduced by 20 percent for purposes of computing the adjusted attributable deposit amount for the payment of any assessment for any semiannual period after December 31, 1995 (other than the special assessment imposed under section 2011(a) of the Balanced Budget Act of 1995), for a Bank Insurance Fund member bank that, as of June 30, 1995— (i) had an adjusted attributable deposit amount equal to less than 75 percent of the total deposits of that member bank; or (ii) had an adjusted attributable deposit amount equal to less than 75 percent of the total deposits of that member bank; or (iii) had an adjusted attributable deposit amount greater than $5,000,000,000; and (iv) was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the Bank Insurance Fund greater than the aggregate amount of deposits insured or treated as insured by the Savings Association Insurance Fund. (2) I N GENERAL.—For purposes of computing the special assessment imposed under paragraph (f) with respect to an acquired savings association, the amount of deposits of such association which were insured by the Federal Deposit Insurance Corporation prior to August 9, 1989, that converted to a Federal savings association, pursuant to section 5(i) of the Home Owners’ Loan Act prior to January 1, 1985, or that, as of June 30, 1995, or that, as of June 30, 1995, was established de novo in order to acquire the deposits of a savings association in default or in danger of default; (ii) did not open for business before acquiring the deposits of such savings association; and (iii) was a Savings Association Insurance Fund member as of the date of enactment of this Act. and (d) an insured bank that— (i) resulted from a savings association before December 31, 1995, in a Merger or Acquisition, as defined in section 5(d)(2)(G) of the Federal Deposit Insurance Act; and (ii) had an increase in its capital in conjunction with the deposit insurance amount equal to more than 75 percent of the capital of the institution on the day before the date of the conversion. (SEC. 2023. MERGER OF BIF AND SAIF. (a) IN GENERAL.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund established by section 11(a)(4) of the Federal Deposit Insurance Act, as amended by this section. (b) CONFORMING AMENDMENT.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended by striking subparagraph (D). (c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1, 1996.
12 U.S.C. 1421 et seq.) is amended—

(A) in section 11(a)(1) (12 U.S.C. 1431(a)(1)), by striking “SAIF-INSURED BANKS” and inserting “THE DEPOSIT INSURANCE FUND”;

(B) in section 11(a)(2) (12 U.S.C. 1431(a)(2)), by striking “the Bank Insurance Fund or the Savings Association Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations” and inserting “the Deposit Insurance Fund”;

(C) in section 12(a) (12 U.S.C. 1432(a)), by striking “the Bank Insurance Fund or the Savings Association Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations” and inserting “the Deposit Insurance Fund”;

(D) in section 5(d) (12 U.S.C. 1435(d)), by striking paragraphs (2) and (3); and

(E) in section 5(d)(1) (12 U.S.C. 1435(d)(1)), by striking “and” at the end;

(ii) in subsection (e)(1)(A), by striking “a” and adding “the” at the end; and

(iii) in subsection (e)(1)(B), by striking “Savings Association Insurance Fund or Bank Insurance Fund” and inserting “Deposit Insurance Fund”;

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

(v) in subsection (m)(3), by striking subparagraphs (E), (F), and (G), and inserting as paragraphs (E), (F), and (G), respectively.

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

(A) in section 317(b)(1)(B) (12 U.S.C. 1723b(1)(B)), by striking “Deposit Insurance Fund” and inserting “Deposit Insurance Fund for savings associations” and inserting “Deposit Insurance Fund”;

(B) in section 526(b)(1)(B)(ii) (12 U.S.C. 1735f±1(b)(1)(B)(ii)), by striking “the Bank Insurance Fund member” and inserting “Deposit Insurance Fund member”;

(C) in section 12(a) (12 U.S.C. 1432(a)), by striking “the Bank Insurance Fund or the Savings Association Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations” and inserting “the Deposit Insurance Fund”;

(D) in section 5(d) (12 U.S.C. 1435(d)), by striking paragraphs (2) and (3); and

(E) in section 5(d)(1) (12 U.S.C. 1435(d)(1)), by striking “and” at the end; and

(ii) in subsection (e)(1)(B), by striking “Savings Association Insurance Fund or Bank Insurance Fund” and inserting “Deposit Insurance Fund”;

(iii) in subsection (e)(2), by striking “Savings Association Insurance Fund or Bank Insurance Fund” and inserting “Deposit Insurance Fund”;

(iv) in subsection (e)(3), by striking “Deposit Insurance Fund” and inserting “Deposit Insurance Fund”;

(v) in subsection (m)(3), by striking subparagraphs (B), (C), and (D), and inserting as paragraphs (B), (C), and (D), respectively.
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(iv) by redesigning subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the margins 2 ems to the left; (v) in section 5(e) (12 U.S.C. 1815(e))—

(i) in subsection (a)(2), by striking “Bank Insurance Fund or the Savings Association Insurance Fund” and inserting “Deposit Insurance Fund”;

(ii) by striking paragraph (6); and

(iii) by redesigning paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively; (f) in section 6(5) (12 U.S.C. 1815(5)), by striking “Bank Insurance Fund or the Savings Association Insurance Fund” and inserting “Deposit Insurance Fund”; (g) in section 6(13) (12 U.S.C. 1815(13)), in the fourth sentence—

(i) by striking “the Deposit Insurance Fund”;

(ii) in subsection (c)(4)(E)—

(I) in the paragraph heading, by striking “fund” and inserting “FUND”;

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

(iii) in subsection (c)(4)(G)(ii)—

(I) by striking “appropriate insurance fund” and inserting “Deposit Insurance Fund”; (i) by striking “the members of the insurance fund”;

(ii) by redesignating subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the left; and

(iii) in paragraph (1), by striking “A deposit insurance fund” and inserting “The Deposit Insurance Fund”;

(iv) in paragraph (2)(A)—

(I) in the subparagraph heading, by striking “FUND” and inserting “Deposit Insurance Fund”;

(ii) by striking “a deposit insurance fund”;

(iii) in paragraph (2)(D) (as redesignated by paragraph (6)(b) of this subsection)—

(I) by striking “any deposit insurance fund” and inserting “the Deposit Insurance Fund”;

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

(v) in paragraph (2)(C) (as redesignated by paragraph (6)(b) of this subsection)—

(I) by striking “deposit insurance fund” and inserting “the Deposit Insurance Fund”;

(ii) in the subparagraph heading, by striking “FUNDS” and inserting “FUND”;

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

(iv) in subparagraph (A), by striking “Except as provided in paragraph (2)(F), if” and inserting “IF”;

(v) in subparagraph (A), by striking “any deposit insurance fund” and inserting “the Deposit Insurance Fund”;

(vi) by redesigning subparagraphs (C) and (D) and inserting the following:

“C AMENDING SCHEDULE.—The Corporation may, after consultation with a schedule promulgated under subsection (B), and

(iii) in paragraph (6)—

(I) by striking “any such assessment” and inserting “any such assessment is necessary”;

(ii) by striking “(A) is necessary —”;

(iii) by striking subparagraph (B);

(iv) redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(V) in subparagraph (C) (as redesignated), by striking “in a period not longer than the longest period prescribed by subsection (A),” and in paragraph (1), by striking “(I) in section 11(a)(1) (12 U.S.C. 1821(a)(1)), by striking “Bank Insurance Fund” or “Savings Association Insurance Fund,” each place such term appears and inserting “Deposit Insurance Fund”; (K) in section 11(a)(2) (12 U.S.C. 1821(a)(2)), by striking paragraph (4); (L) in section 11(a)(3) (12 U.S.C. 1821(a)(3)), by striking “Savings Association Insurance Fund” and inserting “Deposit Insurance Fund”;

(M) in section 13 (12 U.S.C. 1823)—

(i) in subsection (a)(1), by striking “Bank Insurance Fund or the Savings Association Insurance Fund,” each place such term appears and inserting “Deposit Insurance Fund”;

(ii) in subsection (c)(4)(E)—

(I) in the paragraph heading, by striking “fund” and inserting “FUND”;

(ii) in clause (i), by striking “any insurance fund” and inserting “the Deposit Insurance Fund”; (i) in subsection (c)(4)(G)(ii)—

(I) by striking “appropriate insurance fund” and inserting “Deposit Insurance Fund”; (i) by striking “the members of the insurance fund”;

(ii) by redesignating subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the left; and

(iii) in paragraph (1), by striking “A deposit insurance fund” and inserting “The Deposit Insurance Fund”;

(iv) by striking clause (iv) of paragraph (2)(A));

(v) in paragraph (2)(C) (as redesignated by paragraph (6)(b) of this subsection)—

(I) by striking “any deposit insurance fund” and inserting “the Deposit Insurance Fund”;

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

(vi) in paragraph (2)(D) (as redesignated by paragraph (6)(b) of this subsection)—

(I) by striking “deposit insurance fund” and inserting “the Deposit Insurance Fund”;

(ii) in the subparagraph heading, by striking “FUNDS” and inserting “FUND”;

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

(iii) in subparagraph (A), by striking “Except as provided in paragraph (2)(F), if” and inserting “IF”;

(iv) in subparagraph (A), by striking “any deposit insurance fund” and inserting “the Deposit Insurance Fund”;

(v) in subparagraph (C) (as redesignated by paragraph (6)(b) of this subsection)—

(I) by striking “deposit insurance fund” and inserting “the Deposit Insurance Fund”;

(ii) in the subparagraph heading, by striking “FUNDS” and inserting “FUND”;

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

(iv) in subparagraph (A), by striking “Deposit Insurance Fund” and inserting “the Deposit Insurance Fund”;

(v) in section 18(p) (12 U.S.C. 1828(p)), by striking “deposit insurance funds” and inserting “Deposit Insurance Fund”;

(W) in section 24 (12 U.S.C. 1831a) in subsection (a)(2) and (d)(1), by striking “appropriate deposit insurance fund” each place such term appears and inserting “Deposit Insurance Fund”;

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

(Z) in section 31 (12 U.S.C. 1831h) (i) in subsection (a)(1)(i) by striking “funds” and inserting “FUND”; (ii) in subsection (a)(1)(ii) by striking “Deposit Insurance Fund” and inserting “deposit insurance fund” and “Deposit Insurance Fund” and inserting “the Deposit Insurance Fund”;

(i) by striking “A deposit insurance fund” and inserting “The Deposit Insurance Fund”;

(ii) by striking “the deposit insurance fund’s outlays” and inserting “the outlays of the Deposit Insurance Fund”;

(iii) by striking “A deposit insurance fund” and inserting “The Deposit Insurance Fund”;

(iv) by striking clause (iv) of paragraph (2)(A)».


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

(SECT. 2014. CREATION OF SAIF SPECIAL RESERVE.

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

“(L) ESTABLISHMENT OF SAIF SPECIAL RESERVE.—

(i) ESTABLISHMENT.—If, on January 1, 1998, the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, there is established a Special Reserve of the Savings Association Insurance Fund, which shall be administered by the Corporation and shall be invested in accordance with section 13(a).

(ii) AMOUNTS IN SPECIAL RESERVE.—If, on January 1, 1998, the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which the
reserves ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Savings Association Insurance Fund established by clause (i).

(iii) ANNUAL ADJUSTMENT.—The Corporation shall not provide any assessment credit, refund, or other payment from any amount in the Special Reserve of the Savings Association Insurance Fund.

(iv) EMERGENCY USE OF SPECIAL RESERVE.—Notwithstanding clause (iii), the Corporation may, in its sole discretion, transfer amounts from the Special Reserve of the Savings Association Insurance Fund to the purposes set forth in paragraph (4), provided that the reserve ratio of the Savings Association Insurance Fund is less than 50 percent of the designated reserve ratio; and

(v) the Corporation expects the reserve ratio of the Savings Association Insurance Fund to remain at less than 50 percent of the designated reserve ratio for each of the next 4 calendar quarters.

(vi) EXCLUSION OF SPECIAL RESERVE IN CALCULATING RESERVE RATIO.—Notwithstanding any other provision of law, any amounts in the Special Reserve of the Savings Association Insurance Fund shall be excluded in calculating the reserve ratio of the Savings Association Insurance Fund.

SEC. 2015. REFUND OF AMOUNTS IN DEPOSIT IN\- SURANCE FUND IN EXCESS OF DES\- IGNATED RESERVE AMOUNT.

Subsection (e) of section 7 of the Federal De\- posit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

``(e) REFUNDS.—

(1) OVERPAYMENTS.—In the case of any pay\- ment of an assessment by an insured depository institution for the purpose of increasing the amount due to the Deposit Insurance Fund, the Corporation may—

(A) refund the amount of the excess payment to the insured depository institution;

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

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

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), if, as of the end of any semiannual assessment period, the amount of the actual reserves in—

(i) the Bank Insurance Fund (until the merger of such fund into the Deposit Insurance Fund pursuant to section 103 of the Balanced Budget Act of 1995); or

(ii) the Savings Association Insurance Fund (after the establishment of such fund),
exceeds the balance required to meet the designated reserve ratio applicable with respect to such fund, such excess amount shall be re\- funded to insured depository institutions by the Corporation on such basis as the Board of Di\- rectors determines to be appropriate, taking into account the factors considered under the risk\- based system.

(B) REFUND NOT TO EXCEED PREVIOUS SEMI\- ANNUAL ADJUSTMENT.—The amount of any re\- fund under this paragraph to any member of a deposit insurance fund for any semiannual assessment period may not exceed the total amount of assessments paid by such member to the insurance fund with respect to such period.

(C) REFUND LIMITATION FOR CERTAIN INSTI\- TUTIONS.—No refund may be made under this paragraph with respect to the amount of any assessment paid by an insured depository institution de\- scribed in clause (v) of subsection (b)(2)(A).

SEC. 2016. ASSESSMENT RATES FOR SAFI MEM\- BERS MAY NOT BE LESS THAN ASSESSMENT RATES FOR BIF MEM\- BERS.

Section 7(b)(2)(C) of the Federal Deposit Ins\- surance Act (12 U.S.C. 1817(b)(2)(E), as red\- acted by section 103(d)(6) of this Act) is amend\- ed—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; and"; and

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

``(iii) notwithstanding any other provision of this subsection, during the period beginning on the date of enactment of the Balanced Budget Act of 1996, the assessment rate for a Savings Association Insur\- ance Fund member may not be less than the as\- sessment rate for a Bank Insurance Fund mem\- ber that maintains a comparable risk to the deposit insurance fund.

SEC. 2017. ASSESSMENTS AUTHORIZED ONLY IF NECESSARY TO MAINTAIN THE RESERVE RATIO OF A DEPOSIT INSURANCE FUND.

(a) IN GENERAL.—Section 7(b)(2)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(ii)) is amended in the matter pre\- ceding subclause (I) by inserting "when necessary, and only to the extent necessary" after "insured depository institutions".

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

``(III) the Corporation expects the reserve ratio of the Savings Association Insurance Fund to the Federal Deposit Insurance Corporation to be below 50 percent;

(II) the Corporation expects the reserve ratio of the Savings Association Insurance Fund to be below 30 percent; and

(I) if the maximum monthly rent for a unit in a market area, as determined by the Secretary, the Secretary would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area; and

(ii) each assistance contract under this section is for at least one year; and

(iii) the Secretary determines that the assistance contract is for an area in which there is a significant need for rental assistance contracts.

(c) EXCEPTION TO LIMITATION ON ASSESS\- MENT.—Section 7(b)(2)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(ii)) is amended by adding after the word "assessment" the following new clause:

``(V) EXCEPTION TO LIMITATION ON ASSESS\- MENT.—The Board of Directors may set semi\- annual assessments in excess of the amount per\- mitted under clauses (i) and (ii) with respect to insured depository institutions that exhibit fi\- nancial, operational, or compliance weaknesses ranging from moderately severe to unsatisfac\- tory, or are not well capitalized, as that term is defined in section 36 of this Act.

SEC. 2018. LIMITATION ON AUTHORITY OF OVER\- SIGHT BOARD TO CONTINUE TO EMPLOY BOARD FOLLOWING TERMINATION OF CORPORATION.

(a) IN GENERAL.—Section 21A(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1437f(a)(5)) is amended—

(1) by striking "(2)" and inserting "(2)(A)"; and

(2) by adding a period at the end of clause (B) and

(3) by adding the following new subsection:

``(C) T ERMINATION OF EMPLOYMENT OF ADDI\- TIONAL EMPLOYEES REQUIRED TO BE COM\- MENCED.—The Thrift Depository Protection Oversight Board, not later than January 1, 1996, and on May 1, 1996, other than employees whose em\- ployment is in the process of being terminated in accordance with subparagraph (B), shall terminate the employment of any employee of the Board whose continued employment by the Board after such date is inconsistent with the requirements of subparagraph (B), by inserting "subject to paragraph (17)," after the closing parenthesis of the subparagraph designation in each such subparagraph.

SEC. 2019. TECHNICAL AND CONFORMING AMEN\- DMENTS.—Section 21A(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1437f(a)(5)) is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking "subject to paragraph (17)," after the closing parenthesis of the subparagraph designation in each such subparagraph.

For purposes of this subtitle—

(1) the term "Bank Insurance Fund" means the fund established pursuant to section 11(a)(4) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act;

(2) the terms "Bank Insurance Fund member" and "Savings Association Insurance Fund member" have the same meanings as in section 7(I) of the Federal Deposit Insurance Act;

(3) the terms "bank", "Board of Directors", "Corporation", "insured depository institution", "Federal savings association", "savings association", "State savings bank", and "State savings institution" have the meanings as in section 3 of the Federal Deposit Insurance Act;

(4) the term "Deposit Insurance Fund" means the fund established pursuant to section 11(a)(4) of the Federal Deposit Insurance Act, as amended by section 2013(d) of this Act;

(5) the term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

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

(7) the term "Savings Association Insurance Fund" means the fund established pursuant to section 11(a)(6)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act; and

(8) the term "SAIF-assestable deposit" means—

(A) a deposit that is subject to assessment for purposes of the Savings Association Insurance Fund under the Federal Deposit Insurance Act; and

(B) a deposit that section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund.

SEC. 2051. ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY; RE\- STRAIT ON RENT INCREASES.

(a) ANNUAL ADJUSTMENT FACTORS FOR OPER\- ATING COSTS ONLY.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended—

(1) by striking "(2)" and inserting "(2)(A)"; and

(2) by adding a sentence that follows through the end of the subpara\- graph:

"and

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

"Each assistance contract under this section shall provide that—

(i) if the maximum monthly rent for a unit in a new construction or substantial rehabilitation project to be adjusted using an annual adjust\- ment factor exceeds 100 percent of the fair mar\- ket rent for an existing dwelling unit in the market area, the Secretary shall adjust the rent using an operating cost factor that increases the rent to reflect increases in operating costs in the market area; and

(ii) if the owner of a unit in a project de\- scribed in subparagraph (A) determines that the adjusted rent determined under subparagraph (i) would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, the Secretary shall adjust the rent using an operating cost factor that increases the rent to reflect increases in operating costs in the market area; and

(iii) if the owner of a unit in a project de\- scribed in subparagraph (A) determines that the adjusted rent determined under subparagraph (i) would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, the Secretary shall adjust the rent using an operating cost factor that increases the rent to reflect increases in operating costs in the market area; and

(iv) the Secretary shall use the otherwise applicable an\- nual adjustment factor."
any activities that the mortgagee is required to make the mortgagee to the Secretary, and if the rent for the unit is otherwise eligible for an adjustment based on the amount of the annual adjustment factor, 0.01 shall be subtracted from the amount of the adjustment factor, and the annual adjustment factor shall not be reduced to less than 1.0.

(ii) With respect to any unit described in subsection (a) that is assisted under the certificate program, the adjusted rent shall exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area in which the unit is located.

(c) Effective Date. – The amendments made by this section shall become effective on October 1, 1995.

SEC. 2052. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) Foreclosure Avoidance. –Except as provided in subsection (e), the last sentence of section 1710(a) of the National Housing Act (12 U.S.C. 1710a) is amended by inserting before the period the following: “: And provided further, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to foreclosure of a mortgage that is in default, which actions may include such actions as special forbearance, loan modification, and deeds in lieu of foreclosure, all upon such terms and conditions as the mortgagee shall determine in the discretion with the criteria lines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: And provided further, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review.”

(b) Authority to Assist Mortgagors in Default. –Except as provided in subsection (e), section 230 of the National Housing Act (12 U.S.C. 1710a) is amended to read as follows: “AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT. –Sec. 230. (a) Payment of Partial Claim. –The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a portion of the mortgage debt, as determined by the Secretary, to enable the mortgagee to avoid foreclosure of the mortgage and to repay the claim amount to pay the Secretary, to the extent that no insurance benefits are available for the assignment of the mortgage debt, except that the Secretary may accept as compensation for the mortgage debt, other than the insurance benefits, the value of the property mortgaged, as determined by the Secretary, in accordance with the insurance benefits of the mortgagee with respect to the mortgage debt, that may be made available to the mortgagee for the assignment of the mortgage debt, to the extent that the amount of any such insurance benefits does not include assignment of a mortgage to the Secretary: And provided further, That for purposes of this section, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review.”

(c) Effective Date. –The amendments made by this section shall become effective on October 1, 1995.

SEC. 3001. SPECTRUM AUCTIONS.

(a) Extension and Expansion of Auction Authority. –Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) PROGRAM AUTHORITY. – The Secretary shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2000.

(2) RIGHTS AND LICENSES. – (A) Authority to Conduct Bidding. – The Secretary may conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2000.

(b) Authority to Conduct Bidding. – The Secretary may conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2000.

(c) Effective Date. – The amendment made by this section is effective January 1, 1995.
(A) seek to promote the most efficient use of the spectrum;  
(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;  
(C) take into account the needs of public safety radio services;  
(D) comply with the requirements of international agreements concerning spectrum allocations; and  
(E) take into account the costs to satellite service providers that could result from multiple auctions of like spectrum internationally for global satellite systems.

3. IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration shall, to the extent consistent with the purposes of this section, the maximum extent practicable through the use of the authority granted under subsection (g), prepare a reallocation report under subsection (a) that the Federal entity's operations from one or more frequencies, including, without limitation, the Federal entity's life-safety or safety of life services, and modified or reallotted frequencies that are—  
(i) suitable for the use identified in the Commission's notice;  
(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this section);  
(iii) identified in the Commission's notice as frequencies that are available to the Commission for assignment; and  
(iv) identified in the Commission's notice as frequencies that are—

(1) authorized for use under this section;  
(2) identified in the Commission's notice as frequencies that are available to the Commission for assignment; and  
(3) identified in the Commission's notice as frequencies that are available to the Commission for assignment.

4. REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) or the Balanced Budget Act of 1995, the Secretary shall prepare a reallocation report under section 305 of the 1934 Act (47 U.S.C. 305), but such report shall not be deposited in the account of such Federal entity for the costs of relocating the Federal Government station to the spectrum from which such station was relocated.

5. RELLOCATION REPORTS.—If the Federal entity seeks to relocate or relocates a Federal power service in a manner that maximizes the spectrum available for non-Federal use, subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocate a Federal Government station in a manner that maximizes the spectrum available for non-Federal use unless the Federal entity demonstrates that the relocation will not significantly impact the spectrum required for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocate a Federal Government station in a manner that maximizes the spectrum available for non-Federal use unless the Federal entity demonstrates that the relocation will not significantly impact the spectrum required for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use.

6. REALLOCATION REPORTS.—If the Federal entity seeks to relocate or relocate a Federal power service in a manner that maximizes the spectrum available for non-Federal use, subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocate a Federal Government station in a manner that maximizes the spectrum available for non-Federal use unless the Federal entity demonstrates that the relocation will not significantly impact the spectrum required for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use.

7. REALLOCATION REPORTS.—If the Federal entity seeks to relocate or relocate a Federal power service in a manner that maximizes the spectrum available for non-Federal use, subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocate a Federal Government station in a manner that maximizes the spectrum available for non-Federal use unless the Federal entity demonstrates that the relocation will not significantly impact the spectrum required for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use.

8. REALLOCATION REPORTS.—If the Federal entity seeks to relocate or relocate a Federal power service in a manner that maximizes the spectrum available for non-Federal use, subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocate a Federal Government station in a manner that maximizes the spectrum available for non-Federal use unless the Federal entity demonstrates that the relocation will not significantly impact the spectrum required for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use.

TITLES AND RELATED PROVISIONS

SEC. 4000. SHORT TITLE; REFERENCES; AND GENERAL EFFECTIVE DATE.

(a) SHORT TITLE.—This subtitle may be cited as the "Student Loan Reform Act of 1995."  
(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of a section or other provision, the reference shall be to the section or other provision as made by this subtitle or other provisions of this subtitle, as the case may be, and not as made by a section or other provision of any other Act.

SEC. 4001. SHORT TITLE; REFERENCES; AND GENERAL EFFECTIVE DATE.

(a) SHORT TITLE.—This subtitle may be cited as the "Student Loan Reform Act of 1995."  
(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of a section or other provision, the reference shall be to the section or other provision as made by this subtitle or other provisions of this subtitle, as the case may be, and not as made by a section or other provision of any other Act.

SEC. 4002. PARTICIPATION OF INSTITUTIONS AND ADMINISTRATION OF LOAN PROGRAMS.

(a) LIMITATION ON PROPORTION OF LOANS MADE UNDER THE DIRECT LOAN PROGRAM.—Section 453(a) of title 20, United States Code, is amended—  
(1) by amending paragraph (2) to read as follows:

(2) DETERMINATION OF NUMBER OF AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may enter into agreements under subsection (a) and (b) of section 453 with institutions for participation in the direct loan program under this part, subject to the following:

(A) For academic year 1994-1995, loans made under this part shall not represent not more than 5 percent of new student loan volume for such year.

(B) For academic year 1995-1996, loans made under this part, including Federal Direct Consolidation Loans, shall not represent not more than 5 percent of new student loan volume for such year.
30 percent of the new student loan volume for such year, except that the Secretary shall not enter into such an agreement with an eligible institution that has not applied and been accepted into the direct loan program under this part on or before September 30, 1995.

(C) For academic year 1996-1997 and for each succeeding academic year, loans made under this part, including Federal Direct Consolidation Loans, shall not be more than 10 percent of the new student loan volume for such year, except that the Secretary shall not enter into such agreements with any eligible institution that has not applied and been accepted into the Federal Direct Loan Program under this part for the academic year 1996-1997 and for each succeeding academic year;'

(2) by striking paragraph (3);

(3) by redesignating paragraph (4) as paragraph (3); and

(4) in the second sentence of paragraph (3) (as redesignated by paragraph (3)), by striking 'on the most recent program data available' and inserting 'on data from the academic year preceding the academic year for which the estimate is made'.

(b) ELIMINATION OF CONSCRIPTION. — Section 453(b)(2) (20 U.S.C. 1087c(b)(2)) is amended —

(1) by striking subparagraph (A); and

(2) by redesignating subparagraph (B) as subparagraph (A) and inserting 'and funds not otherwise appropriated, funds to be obligated for subsidy costs under this part for the William D. Ford Federal Direct Loan Program. There shall also be available from funds not otherwise appropriated, funds to be obligated for indirect administrative expenses under this part and part B, not to exceed such funds not otherwise appropriated $260,000,000 for fiscal year 1994, $345,000,000 for fiscal year 1995, $385,000,000 (and such sums as may be necessary for administrative costs, including those for guaranty agencies for costs accrued prior to January 1, 1996) for fiscal year 1996, and $85,000,000 for each of the fiscal years 1997 through 2002.

(2) REDUCTION. — The amount authorized to be made available for fiscal year 1997 under subparagraph (A) shall be reduced by the amount of any unobligated unexpended funds available to carry out this subsection for any fiscal year prior to fiscal year 1996.

(2) DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES.—

(1) DIRECT ADMINISTRATIVE EXPENSES.—

(a) EXPENSES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each fiscal year there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for indirect administrative expenses under this part and part B, not to exceed such funds not otherwise appropriated $260,000,000 for fiscal year 1994, $345,000,000 for fiscal year 1995, $385,000,000 (and such sums as may be necessary for administrative costs, including those for guaranty agencies for costs accrued prior to January 1, 1996) for fiscal year 1996, and $85,000,000 for each of the fiscal years 1997 through 2002.

(B) REDUCTION. — The amount authorized to be made available for fiscal year 1997 under subparagraph (A) shall be reduced by the amount of any unobligated unexpended funds available to carry out this subsection for any fiscal year prior to fiscal year 1996.

(2) DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES.—

(1) DIRECT ADMINISTRATIVE EXPENSES.—

(a) EXPENSES.—

(B) INDIRECT ADMINISTRATIVE EXPENSES.—

(i) IN GENERAL.—For purposes of this subsection the term 'direct administrative expenses' means the cost, under the William D. Ford Federal Direct Loan Program of—

(ii) activities related to credit extension, loan origination, loan servicing, management of contractors and payments to contractors, other government entities, and program participants, under this part;

(iii) collection of delinquent loans under this part; and

(iii) write-off and closeout of loans under this part.

(ii) CLARIFICATION WITH RESPECT TO CERTAIN EXPENSES. — Such term does not include the costs to the Department of personnel, training, rent, printing, or other administrative costs, associated with the activities described in subclause (I), (II), or (III) of clause (i).

(B) INDIRECT ADMINISTRATIVE EXPENSES.—

For purposes of this subsection the term 'indirect administrative expenses' means the cost of—

(i) personnel engaged in developing program regulations, policy and administrative guidance;

(ii) audits of institutions and contractors;

(iii) program improvements;

(iv) other oversight of the program under this part or under part B.

(2) SUBSIDY COSTS.—The term 'subsidy cost' means the estimated long-term cost to the Federal Government of direct administrative expenses calculated on a net present value basis; and

(2) by striking subsection (d);

(3) DEFAULT RATE LIMITATIONS ON DIRECT LENDING.—

(A) IN GENERAL.—Section 435(m)(1) (20 U.S.C. 1085(m)(1)) is amended —

(i) by striking paragraph (4); and

(ii) by inserting and subparagraph (B) —

(B) in subparagraph (B) —

(i) by striking (only); and

(ii) by inserting 'or part D determined by the Secretary to be in default, after for insurance; and

(C) in subparagraph (C), by striking '428C and inserting '428C or 453G';

(3) DEFAULT RATES AND INCOME CONTINGENT REPAYMENT.—Section 435(m)(2) (20 U.S.C. 1085(m)(2)) is amended by adding at the end the following new paragraph:

(5) DEFAULT RATE AND INCOME CONTINGENT REPAYMENT.—The Secretary shall prescribe regulations for the calculation of default rates for loans that are repaid pursuant to income contingent repayment under this part, which regulations shall be comparable to regulations for the calculation of default rates for loans that are repaid pursuant to income contingent repayment under part D.

(4) TERMINATION OF INSTITUTIONAL PARTICIPATION.—Section 455 (20 U.S.C. 1087e) is amended by adding at the end the following new subsection:

(II) TERMINATION OF INSTITUTIONS FOR HIGH DEFAULT RATES.—

(A) METHODOLOGY AND CRITERIA.—The Secretary shall develop —

(i) a methodology for the calculation of institutional default rates under the loan programs operated pursuant to this part;

(ii) criteria for the initiation of termination proceedings on the basis of such default rates; and

(iii) procedures for the conduct of such termination proceedings.

(B) COMPARABILITY TO PART B.—In developing the methodology, criteria, and procedures required by paragraph (1), the Secretary, to the maximum extent possible, shall establish standards for the termination of institutions from participation in loan programs under this part that are comparable to the standards established for the termination of institutions from participation in the loan programs under part B. Such procedures shall include provisions for the appeal of default rate calculations based on deficiencies in the servicing of loans under this part that are comparable to the provisions for such appeals based on deficiencies in the servicing of loans under part B.

(3) PROMOTION.—The methodology, criteria, procedures and standards required by paragraph (2) shall be promulgated in final form not later than 120 days after the date of enactment of this paragraph.

(e) ELIMINATION OF TRANSITION TO DIRECT LOANS.—The Act (20 U.S.C. 1001 et seq.) is further amended—

(1) in section 422(c)(7) (20 U.S.C. 1072(c)(7))—

(A) by striking paragraph (A) and inserting 'during the transition' and all that follows through 'part D of this title'; and

(B) in paragraph (B), by striking 'for the purposes of this title' and inserting 'for part D of this title';

(2) in section 422(g)(1) (20 U.S.C. 1072(g)(1))—

(A) in the first sentence, by striking 'or the program authorized by part D of this title'; and

(B) in the second sentence, by striking 'for the program authorized by part D of this title';

(3) in section 428(b)(6) (20 U.S.C. 1087b(c)(6))—

(A) by striking paragraph (B); and

(B) by striking 'A' and inserting 'I';


(A) by inserting "and' before "to avoid disruption" and

(B) by striking '; and to ensure an orderly transition and all that follows through 'part D of this title';

(5) in section 428(c)(9)(K) (20 U.S.C. 1087c(c)(9)(K)) by striking "the progress of the transition from the loan programs under this part to" and inserting "the transition; and

(6) by inserting 'the integrity and administration of';

(7) in section 428(e)(3)(1) (20 U.S.C. 1087e(3)(1)) by striking 'during the transition' and all that follows through 'part D of this title';

(8) in section 428(e)(3)(1) (20 U.S.C. 1087e(3)) by striking 'costs of transition' and inserting 'direct administrative expenses';

(9) in the heading for paragraph (2) of section 453(c) (20 U.S.C. 1087c(c)) by striking 'TRANSITION' and inserting 'INSTITUTIONAL';

(10) in the heading for paragraph (3) of section 453(c) (20 U.S.C. 1087c(c)), by striking 'AFTER TRANSITION' and

(11) in section 456(b) (20 U.S.C. 1087f(b))—

(A) by paragraph (3), by striking 'and after the semicolon;

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4); and

(D) in paragraph (4) (as redesignated by subparagraph (C)), by striking 'successful operation' and inserting 'integrity and efficiency';

(3) FEES FOR ORIGINAL LOAN SERVICES.—Section 452 (20 U.S.C. 1087b) is amended—

(1) by striking subsection (b); and

(2) in section 422(g)(1)(X) (20 U.S.C. 1072(g)(1)(X)) by inserting 'or part D' after 'this part'.

(4) TERMINATION OF PART D LOANS.—The Act (20 U.S.C. 1001 et seq.) is further amended—

(1) in general.—Paragraph (1) of section 455(a) (20 U.S.C. 1087a(e)) is amended to read as follows:

(A) PARALLEL TERMS, CONDITIONS, ELIGIBILITY, REQUIREMENT, BENEFITS AND AMOUNTS.—Unless otherwise specified in this part, loans made to borrowers under this part
shall have the same terms, conditions, deferments, forbearances, eligibility requirements, and benefits, be subject to the same administrative requirements for origination, payment, reporting, and other requirements. Applications shall be available in the same amounts, be subject to the same interest rates and same amount of fees, and have the same repayment plans, as the corresponding loans made to borrowers under sections 428, 428B, and 428H. The Secretary shall promulgate regulations implementing this paragraph not later than 120 days after the date of enactment of the Student Loan Reform Act of 1995.”.

(2) **CONFORMING AMENDMENTS.**—Section 428B(1) (20 U.S.C. 1078(b)(1)) is amended—

(A) by striking “(E) the Secretary (2) and” and inserting “(E) the Secretary (2) except”;

(B) by replacing “(E)(i)” with “(E)(i)(A)”;

(C) by striking “shall have the same terms and conditions” and inserting “shall have the same terms, conditions, and”;

(D) by inserting “and, as required of lenders under this part.”; and

(E) by amending paragraph (B) to read—

“(B) The guaranty agency may purchase and hold defaulted loans that are guaranteed by such agency for which claims for insurance are filed by an eligible lender. The amount of such purchases shall be calculated under the section of the minimum reserve level under section 428(c)(9).”.

(3) **COMPARABLE TERMS AND CONDITIONS.**—Section 428(m) (20 U.S.C. 1078(m)) is amended by adding at the end the following new paragraph:

“(2) **INCOME CONTINGENT REPAYMENT SCHEDULES.**—For purposes of section 428(m) and income contingent repayment schedules established pursuant to subsection (b)(1)(E)(i) and section 428C(2)(A) such term shall have terms and conditions of repayment determined by the Secretary in accordance with section 428(c)(15) to the extent that the guaranty agency determines that the guarantor agency delays in exercising the due diligence required of such guaranty agency.

(4) **USE OF RESERVE FUNDS TO PURCHASE DEFRAUDED LOANS.**—Section 422 (20 U.S.C. 1072) is amended by adding at the end the following new subsection:

“(h) **USE OF RESERVE FUNDS TO PURCHASE DEFRAUDED LOANS.**—The Secretary, in the case of any guaranty agency that uses reserve funds to purchase and hold defaulted loans that are guaranteed by such agency for which claims for insurance are filed by an eligible lender, shall determine the amount of such purchases shall be calculated under the section of the minimum reserve level under section 428(c)(9).”.

(5) **SPECIAL RULE.**—A guaranty agency that uses reserve funds to purchase and hold defaulted loans that are guaranteed by such agency for which claims for insurance are filed by an eligible lender, shall be subject to the provisions of this paragraph and section 428(c)(9).”.

(6) **REGULATION PROHIBITED.**—The Secretary shall not promulgate regulations governing the collection activity of a guaranty agency with respect to a loan described in subsection (a) for which reinsurance has not been paid under section 428(c)(1).”.

(7) **EFFECTIVE DATE.**—The amendment made by this section shall apply to loans for which insurance is filed by eligible lenders on or after January 1, 1996.

(8) **ADMINISTRATIVE COST ALLOWANCE.**—Section 428(c)(3) (20 U.S.C. 1078(c)(3)) is amended—

(1) in the matter preceding clause (i) of subparagraph (A), by striking “For a fiscal year prior to fiscal year 1994, the’’ and inserting ‘‘The’’; and

(2) by amending subparagraph (B) to read as follows:

“(B) The total amount of payments for any fiscal year prior to fiscal year 1994 made under this paragraph shall be equal to 1 percent of the total principal amount of the loans for which insurance was issued during such fiscal year by such guaranty agency.

(‘‘(ii) For the period beginning January 1, 1996 and ending September 30, 1996, and for each fiscal year thereafter, each guaranty agency shall receive an administrative cost allowance, payable quarterly, for such fiscal year calculated on the basis of 0.85 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency.

(‘‘(iii) The guaranty agency shall be deemed to have contractual rights against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay. ’’).”

(9) **GUARANTOR PURCHASE OF CLAIMS.**—Section 428(j) (20 U.S.C. 1078(j)) is amended by adding at the end the following new section:

“**SEC. 428K. GUARANTOR PURCHASE OF CLAIMS.**—If the guaranty agency determines that the guarantor agency delays in exercising the due diligence required of the guarantor agency, the guarantor agency shall discharge the guarantor agency’s insurance obligation in accordance with section 428(j), except that the Secretary may purchase and hold defaulted loans that are guaranteed by such agency for which claims for insurance are filed by an eligible lender. The amount of such purchases shall be calculated under the section of the minimum reserve level under section 428(c)(9).”.

(10) **SPECIAL RULE.**—A guaranty agency that uses reserve funds to purchase and hold defaulted loans that are guaranteed by such agency for which claims for insurance are filed by an eligible lender, shall be subject to the provisions of this paragraph and section 428(c)(9).”.
"(iv) Notwithstanding clauses (ii) and (iii)—
"(I) for each of the fiscal years 1996 through 1998, the Secretary shall pay an aggregate amount for such year of not more than $220,000,000 to all guaranty agencies receiving administrative cost allowances under this subparagraph; and
"(II) for each of the fiscal years 1999 through 2002, the Secretary shall pay an aggregate amount for such year of not more than $180,000,000 to all guaranty agencies receiving administrative cost allowances under this subparagraph.

(d) Secretary's Equitable Share of Collections on Consolidated Defaulted Loans.—Section 428(c)(6)(A) (20 U.S.C. 1078(c)(6)(A)) is amended—
"(1) in the matter preceding clause (i)—
"(A) by inserting "on or after" after "made by"; and
"(B) by inserting ", including payments made to discharge loans made under this title to obtain a consolidation loan pursuant to this part or part D," after "borrower"; and

(2) in clause (ii), by inserting after "an amount equal to" the following: "—

"(I) for defaulted loans consolidated pursuant to this part or part D on or after January 1, 1996, 18.5 percent of the balance of the principal, accrued interest, and collection costs, outstanding at the time of such consolidation; or

(ii) for all other loans,

(e) Reserve Fund Reforms.—

(1) Strengthening and Stabilizing Guaranty Agencies.—Section 428(c) (20 U.S.C. 1078(c)) is amended—

(A) in paragraph (9)(C)(iii), by striking "80 percent" and inserting "76 percent"; and

(B) in paragraph (9)(E)—

(i) in the matter preceding clause (i), by striking "The Secretary may terminate a" and inserting "After providing a guaranty agency notice and opportunity for a hearing on the record, the Secretary may terminate such";

(ii) in clause (iv), by inserting "after the semiannual";

(iii) by striking clause (v); and

(iv) in clause (v), by striking "or" and inserting "after a period.

(2) Additional Amendments.—Section 422 (20 U.S.C. 1072) is further amended—

(A) in the last sentence of subsection (a)(2), by striking "Except as provided in section 428(c)(10)(E) or (F), such" and inserting "Except as provided in paragraph (E) or (F) of section 428(c)(9), such;";

(B) in subsection (g), by amending paragraph (4) to read as follows:

"(4) when funds returned or recovered by the Secretary. Any funds that are returned to or otherwise recovered by the Secretary pursuant to this subsection shall be returned to the Treasury of the United States for purposes of reducing the Federal debt and shall be deposited into the special account under section 3131(d) of title 31, United States Code.

(ii) Elimination of Supplemental Preclalms Assistance.—

(1) Amendment.—Section 428(I) (20 U.S.C. 1078(I)) is amended—

(A) by striking paragraph (2); and

(B) by striking "(I) PRECLAIMS" and all that follows through "Upon receipt" and inserting the following:

"(I) PreClaims Assistance and Supplemental Preclaims Assistance.—Upon receipt of a claim, the Secretary shall—

(1) Effective Date.—The amendment made by this subsection shall apply to claims made on or after January 1, 1996.

(g) Reserve Ratios.—Section 428(c)(9)(A) (20 U.S.C. 1078(c)(9)(A)) is amended—

(1) in clause (i), by inserting "and" after the semicolon;

(2) in clause (ii), by striking "; and" and inserting a period; and

(3) by striking clause (iii).

(h) Guaranty Agency Reimbursement.—

(1) In General.—Section 428(c)(1) (20 U.S.C. 1078(c)(1)) is amended—

(A) in clause (i), by inserting "by" after "80 percent" and inserting "96 percent"; and

(B) in subparagraph (B)—

(i) in clause (i), by striking "96 percent" and inserting "86 percent"; and

(ii) in clause (ii), by striking "78 percent" and inserting "76 percent.

(2) Effective Date.—The amendments made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

SEC. 4005. AMENDMENTS AFFECTING FFEL LENDERS AND LOAN HOLDERS.

(a) Risk Sharing by the Loan Holders.—

(1) Amendment.—Section 428(b)(1)(G) (20 U.S.C. 1078(b)(1)(G)) is amended by striking "not less than 85 percent" and inserting "95 percent".

(2) Effective Date.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(b) Lenders of Last Resort.—Section 428(b)(2) (20 U.S.C. 1078(b)(2)) is amended—

(1) in paragraph (A), by striking "60 days" and inserting "15 days"; and

(2) in subparagraph (B), by striking "two rejections from an eligible lender".

(c) Exceptional Performance Insurance Reduction.—Section 428(b)(1) (20 U.S.C. 1078(b)(1)) is amended—

(1) in the paragraph heading, by striking "100 percent"; and

(2) by striking "100 percent" and inserting "95 percent or 100 percent in the case of a lender of last resort.

(d) Loan Fees From Lenders.—Section 428I(b)(2) (20 U.S.C. 1078I(b)(2)) is amended—

(1) in paragraph (A), by striking "5.00 percent" and inserting "0.80 percent".

(2) Effective Date.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(e) Lender and Holder Rebate.—

(1) Amendment.—Section 438 (20 U.S.C. 1078) is amended by adding at the end the following new subsection:

"(g) Subsidy Rebate on Stafford and PLUS Loans.—

"(1) Rebate.—Each holder of a subsidized or unsubsidized Federal Stafford Loan under this part, or a lender that is a government-sponsored enterprise as such term is defined in section 103 of title 5, United States Code, that originates or holds more than $5,000,000 in Federal Parent PLUS loans, that originates or holds more than $5,000,000 in Federal Direct PLUS loans, or that originates or holds more than $5,000,000 in Federal PLUS loans, or that originates or holds more than $5,000,000 in Federal Direct PLUS loans, shall make a rebate to the Secretary of the Treasury, in completing the sale of stock pursuant to subsection (c), or sell the stock to the Secretary of the Treasury.

"(2) Effective Date.—The amendment made by this subsection shall apply to sales of stock made on or after January 1, 1996.

(f) REDUCTION. Section 428I(b)(1) (20 U.S.C. 1078I(b)(1)) is amended—

(1) in the first sentence of subsection (a), by striking "the Secretary may reduce the amount of such rebate" and inserting "the Secretary shall reduce the amount of such rebate";

(2) by striking "if such lender".

(g) SUBSIDY REBATE ON STAFFORD AND PLUS LOANS.—

"(1) REBATE.—Each holder of a subsidized or unsubsidized Federal Stafford Loan under this part, or a Federal Parent PLUS loan under section 438(d) for the quarters ending June 30 and December 31, a subsidy rebate in an amount equal to 0.50 percent of the unpaid principal on loans made under this title in any fiscal year that originates or holds more than $5,000,000 in principal on loans made under this title in any fiscal year before "for (I)";

"(2) in subparagraph (i), by inserting "such" before "lender at least one default exception"; and

"(3) in paragraph (ii), by striking "such" before "a lender that is audited"; and

"(4) by striking "if the lender" and inserting "of such lender".

SEC. 4006. CONNIE LEE PRIVATIZATION.

(a) Status of the Corporation and Corporate Powers; Obligations Not Federally Guaranteed.—

(1) Status of the Corporation.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation nor a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code.

No action under section 1401 of title 26, United States Code (commonly known as the Tax Code) shall be taken by the United States Government or the Corporation, as applicable, as provided in the United States Code. The Corporation shall have the powers conferred upon a corporation by a Government corporation or a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code. The Corporation shall have power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of its affairs and the efficient operation of a private, for-profit business.

(3) Limitation on Ownership of Stock.—

(a) Secretary of the Treasury.—The Secretary of the Treasury shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares held by the Secretary of Education or the comparable law of another State, if applicable.

(b) Stock of the Corporation.—The Corporation shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a share holder, and may continue to exercise its right to appoint directors under section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f-3) as long as that section is in effect.

(C) Prohibition.—Until such time as the Secretary of the Treasury sels the stock of the Corporation pursuant to subsection (c), the Student Loan Marketing Association sels the stock of the Corporation owned by the Secretary of the Treasury.
of Education pursuant to subsection (c), the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where appropriate, monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

(a) No Federal guarantee.—

(i) Full faith and credit of the United States.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(ii) Student Loan Marketing Association.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) Special rule.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(b) Securities offered by the Corporation.—The Corporation shall include, in each of the Corporation’s contracts for the insurance, guarantee, and reinsure bonds, leases, and other obligations of the United States, (A) obligations insured by the Corporation, (B) securities offered by the Corporation, (C) securities of the United States, and (D) obligations of a monoline financial guaranty corporation as defined in section 2(13) of the Securities Act of 1933 in the form of common stock, preferred stock, or any warrants issued for such obligations that mature more than five years after the date of issuance of such obligations, and securities of a monoline financial guaranty corporation as defined in section 2(13) of the Securities Act of 1933 in the form of common stock, preferred stock, or any warrants issued for such obligations that mature more than five years after the date of issuance of such obligations.

(c) Sale of federally owned stock.—(1) Sale of stock required.—The Secretary of the Treasury shall sell, pursuant to section 324 of title 31, United States Code, the stock of the Corporation owned by the Secretary of Education within 6 months after the date of enactment of this Act, such stock at a price determined by the Secretary of Education’s stock as determined by the Congressional Budget Office in House Report 104-153, dated November 20, 1995.

(2) Purchase by the Corporation.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within 6 months after the date of enactment of this Act, such stock at a price determined by the Secretary of Education and the Secretary of the Treasury. The Corporation shall purchase, within 6 months after the date of enactment of this Act, such stock at a price determined by the Secretary of Education’s stock as determined by the Congressional Budget Office in House Report 104-153, dated November 20, 1995.

(d) Reimbursement of costs of sale.—The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs related to such sale, including all reasonable expenses relating to one or more independent appraisals under this subsection.

(e) Assistance by the Corporation.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.


SEC. 4007. EXTENSION OF PROGRAM DURATION. Part B of title IV (20 U.S.C. 1071 et seq.) is amended—

(1) in section 424(a) (20 U.S.C. 1074(a)), by striking “1998” and inserting “2002”;

(2) in section 428(a)(5) (20 U.S.C. 1078(a)(5)—

(A) by striking “1998” and inserting “2002”; and

(B) by striking “2002” and inserting “2006”; and

(3) in section 428(c) (20 U.S.C. 1078-3(c)), by amending the first sentence to read as follows: “The authority to make loans under this section expires at the close of September 30, 2002.”.


SEC. 4101. WAIVER OF MINIMUM PERIOD FOR JOINT SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) General rule.—For purposes of section 205(c)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(3)(A)), the minimum period prescribed by the Secretary of the Treasury with respect to the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant’s spouse.

(b) Effective date.—Subsection (a) shall apply to plan years beginning after December 31, 1995.

Subtitle B—Department of Energy Assets

CHAPTER 1—UNITED STATES ENRICHMENT CORPORATION

SEC. 5201. SHORT TITLE. This chapter may be cited as the “USEC Privatization Act.”

SEC. 5202. DEFINITIONS. For purposes of this chapter—

(1) USEC means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(2) Private corporation means the corporation established under section 5205.

(3) Secretary means the Secretary of Energy.

(4) Low-level radioactive waste means uranium enriched to 20 percent or less of the uranium-235 isotope.

(5) Low-enriched uranium means uranium enriched to less than 10 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) Uranium-235 isotope means the uranium-235 isotope.

(7) Low-level radioactive waste has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021(b)).


(9) Secretary means the Secretary of Energy.

(10) Suspension Agreement means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(11) United States means the Government of the United States.

(12) Public policy means the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment, conversion, and conversion services, and, to the extent not inconsistent with such purposes, securing the maximum proceeds to the United States.
Congressional Record — House
November 20, 1995

H 13398

SEC. 5204. METHOD OF SALE.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of any or all of the Corporation to the private corporation established under section 5205 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided for in, the law of the state of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) CONDITION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) ADEQUATE PROCEEDS.—The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 5203(a).


SEC. 5205. ESTABLISHMENT OF PRIVATE CORPORATION

(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of the law of the State of incorporation.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the Corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18, United States Code.

(b) STATUS OF THE PRIVATE CORPORATION.—

(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Governmental activity.

(2) Except as otherwise provided by this chapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall be plainly so stated.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions stated in section 207 (a), (b), (c), and (d) of title 18, United States Code, shall not apply to the acts of an individual who, after the privatization date, is an officer or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) DISOLUTION.—In the event that the privatization of the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or the Corporation, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

SEC. 5206. TRANSFERS TO THE PRIVATE CORPORATION

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 5207;

(2) personal property and inventories of the Corporation;

(3) all contracts, agreements, and leases under section 5208(a);

(4) the Corporation's right to purchase power from the Secretary under section 5208(b);

(5) such funds in accounts of the Corporation held by the Secretary or in deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the Corporation's property materials, regardless of physical form or characteristics, made or received by the Corporation.

SEC. 5207. LEASING OF GASEOUS DIFFUSION FACILITIES

(a) TRANSFER OF LEASE.—Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) RENEWAL.—The private corporation shall have the exclusive right to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1942 (42 U.S.C. 2292 et seq.), grants the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response to releases, or corrective actions with respect to preexisting conditions existing before July 1, 1993 at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) ENVIRONMENTAL AUDIT.—For purposes of subsection (d), the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1430 of the Atomic Energy Act of 1942 (42 U.S.C. 2292c) in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation or the private corporation, any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d of the Atomic Energy Act of 1942 (42 U.S.C. 2210d).

(g) WAIVER OF EIS REQUIREMENT.—The execution of an agreement between the Secretary and the Corporation or the private corporation, any extension or renewal thereof, shall not be considered a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 5208. TRANSFER OF CONTRACTS

(a) TRANSFER OF CONTRACTS.—Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 1401(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2292(b)), or

(2) entered into by the Corporation before the privatization date.

(b) TRANSFERABLE POWER CONTRACTS.—The Corporation shall transfer to the private corporation the right to purchase power from the United States under power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) EFFECT OF TRANSFER.—Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(d) TERMINATION OR LEASE TRANSFER.—Any contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment; and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(e) PRIVATE CORPORATION RESPONSIBILITY.—The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(f) PRICING.—The Corporation may establish prices for its products, services, or utilities provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

SEC. 5209. LIABILITIES OF THE UNITED STATES

(a) ENVIRONMENTAL LIABILITIES OF THE UNITED STATES.—(1) Except as otherwise provided in this chapter, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, that may reasonably be deemed to be direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1961, and the privatization date shall become the direct liabilities of the Secretary.

(b) EXCEPTED CONTRACTS.—Any stated or implied consent for the United States, or any agency or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agency or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.
(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for the approval of such claim, the claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to authorize the Secretary to impose on any person seeking to impose liability under this subsection.

(a) No officer, director, employee, or agent of the Corporation shall have cause of action under any provision of any agreement to which the Corporation is a party to recover on the privatization date (which amounts shall be funded by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system). (b) Any charge under this subsection alleging an unfair labor practice elective pursuant to paragraph (4); and (c) Such amounts as are determined necessary by the Office of Personnel Management under paragraph (5) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for those employees who elect to retain their coverage under FERS pursuant to paragraph (1). (4) Any employee of the Corporation who was placed on the Corporation's retirement system, CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, CSRS or FERS, as applicable, in lieu of coverage by the Corporation's system, CSRS, CSRS, or FERS, for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1); (b) such additional agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1); and (c) such additional amounts, no not to exceed two percent of the amounts under subparagraphs (A) and (B), as necessary by the Office of Personnel Management to pay to administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be paid to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).

(3) The Corporation shall pay to the Thrift Savings Fund the employee contributions of the employees covered by section 8422, and 8423 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (4); and (B) any employee of the Corporation who was entitled to receive on the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (4); and (B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (5) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

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(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(3) The Corporation shall pay to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain their coverage under either CSRS or FERS pursuant to paragraph (1), shall have the option to receive benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.
terms more favorable than those offered to the general public—

(1) In a public offering designed to transfer ownership of the Corporation to private investors, or

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) by the election of the directors of the private corporation.

(b) Ownership Limitation.—Immediately following the consummation of the transaction or series of transactions pursuant to which 100 percent of the ownership of the Corporation is transferred to private investors, and for a period of three years thereafter, no person may acquire, beneficially, beneficial ownership of securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The foregoing limitation shall not apply to

(1) any employee stock ownership plan of the Corporation,

(2) members of the underwriting syndicate purchasing shares in stabilization transactions in connection with the privatization, or

(3) in the case of shares beneficially held in the ordinary course of business for others, any commercial bank, broker-dealer, or clearing agency.

SEC. 5212. URANIUM TRANSFERS AND SALES.

(a) Transfers and Sales by the Secretary.—(1) The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) Russian HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low enriched uranium (to the extent that the conversion component of such low enriched uranium is contained in low enriched uranium transferred to the Secretary pursuant to paragraph (3)) to the Secretary for use in the United States. The Secretary shall, upon request of the Russian Executive Agent, as contemplated in this paragraph, sell to the United States Executive Agent up to 50 metric tons of natural uranium hexafluoride equivalent per year on the effect the transfer of the conversion component of such low enriched uranium has on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such requirements shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) Transfers to the Corporation.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy’s stockpile, subject to the restrictions in subsection (c)(2) and (c)(3).

(d) In inventory sales. In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium transferred for the use of the receiving agency) to any person except as consistent with this section.

(e) Government transfers. Notwithstanding subsections (c) and (e), the Secretary may transfer or sell low-enriched uranium—

(1) to a Federal agency if the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

The Secretary shall have responsibility for the administration and enforcement of the limitations set forth in this subsection and shall take any action requested by the Secretary of Commerce which is necessary to enforce the limitations set forth in this subsection.

The purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection shall restrict the sale of the conversion component of such low enriched uranium derived from at least 18 metric tons of uranium hexafluoride transferred to the Secretary pursuant to paragraph (3) for the purpose of overfeeding in the operations of enrichment facilities.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection and shall take any action requested by the Secretary of Commerce which is necessary to enforce the limitations set forth in this subsection.

The purpose of overfeeding in the operations of enrichment facilities.
(f) SAVINGS PROVISION.—Nothing in this chapter shall be read to modify the terms of the Russian HEU Agreement.

SEC. 5213. LOW-LEVEL WASTE.

(a) RESPONSIBILITY OF DOE.—(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by the generator as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than a gaseous diffusion plant. The terms of conditions for such service shall be no more favorable than those the Secretary offers any other generator of such wastes generated by uranium enrichment plants licensed by the Nuclear Regulatory Commission.

(2) The Secretary shall recover the cost of providing the service in paragraph (1), including a pro rata share of capital costs, by charging the Corporation a fee for such service in an amount equal to the price charged uranium enrichment plants licensed by the Nuclear Regulatory Commission, but in no event shall the Secretary charge any generator more than an amount equal to that which would be charged by commercial, state, regional, or interstate compact entities for such waste.

(b) AGREEMENTS WITH OTHER PERSONS.—The Corporation or any other generator may also enter into agreements for the disposal of low-level radioactive waste with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes, but shall have no authority to enter into an agreement with a State or interstate compact facility without the Secretary's consent.

(c) TRANSFER OF RELATED PROPERTY TO CORPORATION.—(1) In general.—To the extent requested by the Secretary, the Secretary shall transfer without charge to the Corporation all of the right, title, and interest provided to the Corporation under subsection (a), but shall have no authority to enter into an agreement with a State or interstate compact facility without the Secretary's consent.

(2) Transfer of related property.—The Corporation and its contractors and subcontractors shall be subject to the Nuclear Regulatory Commission's standards governing the gaseous diffusion plants, including any such facilities leased to a corporation licensed by the Nuclear Regulatory Commission.

SEC. 5214. AVLIS.

(a) EXCLUSIVE RIGHT TO COMMERCIALIZED.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, inventions, or technical information of any kind, developed, owned, or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—(1) In general.—To the extent requested by the Secretary, the Secretary shall transfer to the Corporation all of the right, title, or interest in property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS.

(2) Transfer of related technology.—The Corporation shall own and control AVLIS technologies and uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, rights, and agreements, and leases.

(c) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

(d) EXPIRATION OF TRANSFER AUTHORITY.—(1) In general.—The President's authority to transfer property under this subsection shall expire upon the privatization date.

(2) Limitation.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under this section or sections 53, 63, or 1701, if the Commission determines that—

(A) the Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

(B) the issuance of such a license or certificate of compliance would be inimical to—

(i) the common defense and security of the United States; or

(ii) the maintenance of a reliable and economical domestic source of enrichment services.

(3) Nonrenewal of licenses.—Section 170c(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:

"(2) PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not more than every 5 years. The Commission, in its discretion, may apply such application and any determination made under subsection (b)(2) shall be based on the results of any such review.".

(4) ENFORCEMENT.—Section 702(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2232) is amended—

(1) by striking "other than" and inserting "including", and

under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

SEC. 5215. LOW-LEVEL WASTE.

(a) OSHA.—(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 551 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the date of enactment of this Act, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including establishing inspection, enforcement, and rulemaking relating to such hazards.

(b) ANTITRUST LAWS.—For purposes of the antitrust laws, the performance by the private corporation of a "matched import" contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) ENERGY REGULATION ACT REQUIREMENTS.—(1) The private corporation and its contractors and subcontractors shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the Corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the private corporation.

SEC. 5216. AMENDMENTS TO THE ATOMIC ENERGY ACT.

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297-2297d-7) are repealed at the end of the section.

(2) The table of contents of such Act is amended to reflect the repeal of such chapter.

(b) NRC LICENSING.—(1) Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2231v.) is amended by striking "any license issued thereunder'' and inserting: "any license or certification issued thereunder''.

(2) The Nuclear Regulatory Commission and its officers of the private corporation.

(c) JUDICIAL REVIEW OF NRC ACTIONS.—Section 180b. of the Atomic Energy Act of 1954 (42 U.S.C. 2231b) is amended by adding—the following Commission actions shall be subject to judicial review in the manner prescribed by chapter 10 of title 5, United States Code and chapter 7 of title 5, United States Code:

(1) any final order entered in any proceeding of the kind specified by paragraphs (1) and (2); or

(2) any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license under any law or any final order allowing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.

(d) CIVIL PENALTIES.—Section 234 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2282a) is amended—

(1) striking "any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109" and inserting "any license or certification issued under" and

(2) by striking "any license issued thereunder'' and inserting "any license or certification issued thereunder''.

(e) REFERENCES TO THE CORPORATION.—Following the privatization date, all references in the Atomic Energy Act of 1954 to the United States Enrichment Corporation shall be deemed to be references to the private corporation.

SEC. 5217. AMENDMENTS TO OTHER LAWS.

(a) DEFINITION OF CORPORATION.—As of the privatization date, section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N) as added by section 902(b) of Public Law 102-486.

(b) DEFINITION OF CORPORATION.—Section 101(1) of the Energy Policy Act of 1992 (42 U.S.C. 29960—71) is amended by inserting "or its successor before the privatization date".

CHAPTER 2—DEPARTMENT OF ENERGY

SEC. 5211. SALE OF DOE ASSETS

(a) ASSET MANAGEMENT AND DISPOSITION PROGRAM.—In order to maximize the use of Department of Energy assets and to reduce overhead and other costs related to asset management at the Department's facilities and laboratories, the Secretary of Energy shall conduct an asset management and disposition program that will result in not less than $225,000,000 in receipts and savings by October 1, 2000.

(b) ITEMS TO BE INCLUDED.—The program shall include an inventory of assets in the care of the Department and its contractors; the reclassification and removal of the assets; and the disposal of a minimum of 1,150,000,000 pounds of fuel, 136,000 tons of chemicals and industrial gases, 557,000 tons of scrap metal, 14,000 radiological sources, 17,000,000 pieces of major equipment, 11,000 pounds of precious metals, and 91,000,000 pounds of base metals.

(c) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—The disposal or transfer of assets under this section is not subject to section 202 or 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484) or section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

(d) DISPOSITION OF PROCEEDS.—After deduction of administrative costs of disposition under any law or regulation, the Secretary shall dispose of the remaining proceeds in accordance with any law or regulation that provides for the disposition of proceeds from sales of Federal property.
this section not to exceed $7,000,000 per year, the remainder of the proceeds from dispositions under this subpart shall be returned to the Treasury as miscellaneous receipts. There shall be established in the Treasury a new receipt account in the name of the United States for the purpose of recovering, refining and marketing helium.

**SEC. 5301. CONVEYANCE OF PROPERTY.**

Section 3, 4, and 5 are amended to read as follows:

"SEC. 3. AUTHORITY OF SECRETARY.

(a) Extractions and Disposal of Helium on Federal Lands.—

(1) In general.—The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands, according to such terms and conditions as the Secretary deems fair, reasonable, and necessary.

(b) Leasehold Rights.—The Secretary may grant leasehold rights to extract crude helium from Federal lands in compliance with subsection (a).

(c) Limitation.—The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium.

(d) Regulations.—Agreements under paragraphs (1) and (2) shall be subject to any applicable provisions of section 7 of the National Environmental Policy Act of 1969.

"SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL.—

(a) Storage, Transportation, and Withdrawal.—The Secretary may store, transport, and sell crude helium in accordance with this Act.

(b) Cessation of Production, Refining, and Marketing.—Not later than 6 months after the date of enactment of the Helium Act of 1995, the Secretary shall cease production, refining, and marketing of crude helium and shall cease carrying out all other activities relating to the recovery, processing, and trade in crude helium, including the purchase, sale, and withdrawal of crude helium, except as may be required by reason of subsection (c).

(c) Diversion of crude helium.—

(1) In general.—Subject to paragraph (5), not later than 24 months after the cessation of activities referred to in subsection (b) of this section, the Secretary shall designate as excess property and dispose of all facilities, equipment, and all other real and personal property, and all surplus helium in the Strategic Petroleum Reserve in California, for the purpose of producing, refining and marketing refined helium.

(2) Time of Sale.—The Secretary shall publish in the Federal Register a notice specifying the dates and manner of the sale of the excess property and helium designated under this subsection.

(3) Proceeds.—All proceeds received by the United States by reason of the sale or other disposition of such property shall be treated as monies received under this chapter for purposes of section 4(f)."
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“(2) adjusting the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1995.”

(d) Subsection 6(d) is amended to read as follows:

“(d) EXTRATION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the disposal of helium reserves on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c).”

(2) by adding the following at the end:

“(2)(A) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1).

“(B) On repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the general fund of the Treasury.”

SEC. 3315. ELIMINATION OF STOCKPILE. Section 8 is amended to read as follows:

“SEC. 8. ELIMINATION OF STOCKPILE. (a) Stockpile Sales.—(1) COMMENCEMENT. Not later than January 1, 1995, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such amounts as would be necessary to dispose of all such helium reserves exceeding 600,000,000 cubic feet on Federal lands as the Secretary determines, in consultation with the helium industry, to be necessary to carry out this subsection with minimum market disruption.

“(2) PRICE. The price for all sales under paragraph (1), as determined by the Secretary in consultation with the helium industry, shall be such price as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c).

“(b) allotment of additional helium reserves shall not affect the duty of the Secretary to make sales of helium under subsection (a).”

SEC. 3316. REPEAL OF AUTHORITY TO BORROW. Sections 6(a) and 12 are repealed.

SEC. 3317. LAND CONVEYANCE IN POTTER COUNTY, TEXAS.

(a) In General.—The Secretary of the Interior shall transfer all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the Texas Plains Girl Scout Council for consideration of $1, to be applied with the rest of the proceeds toward the acquisition of a tract of land in Potter County, Texas, described by metes and bounds as follows:

(1) First Tract.—One Hundred Seventy-one (171) acres of land located as the Northwest corner of the East Half of the West Half of Section Fifty-nine (59) in Block Nine (9), B.S. & F. Survey, (some times known as the G.D. Landis pasture) Potter County, Texas, located by certificate No. 1/39 in the Patent Records of the State of Texas. The metes and bounds description of such lands is as follows:

Beginning at a stone 20 x 12 x 3 inches marked X, set by W.D. Twichel in 1905, for the Northwest corner of this survey and the Northwest corner of Section 59; Thence, South 90 degrees 12 minutes West with the West line of said Section 59, 999.4 varas to the Northeast corner of the South 160 acres of East Half of Section 59; Thence, North 89 degrees 47 minutes West with the North line of the South 150 acres of the East half, 996.8 varas to a point in the East line of the West Half of Section 78;

Thence, North 0 degrees 10 minutes West with the East line of the West half 999.4 varas to a stone 18 x 14 x 3 inches in the middle of the South line of Section 78;

Thence, South 89 degrees 47 minutes East 965 varas to the place of beginning.

(b) REPEAL.—The prohibitions and limitations contained in section 1002(b) of the Alaska Native Claims Settlement Act of 1980 (25 U.S.C. 1341(b)(1)), as amended, shall be considered expired by law.

(c) COMPATIBILITY.—Congress hereby determines that the oil and gas leasing program and activities authorized by this section in the Coastal Plain are compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(d) SOLE AUTHORITY.—This chapter shall be the sole authority for leasing on the Coastal Plain. Provided, That nothing in this chapter shall be deemed to expand or limit state and local regulatory authority.

(e) FEDERAL LAND.—The Coastal Plain shall be considered “Federal land” for the purposes of the Federal Oil and Gas Royalty Management Act of 1982.

(f) SPECIAL AREAS.—The Secretary, after consultation with the State of Alaska, City of Kotzebue, and the North Slope Borough, and whenever practicable, on existing operational and other appropriate Federal officers and agencies, shall be authorized to designate up to a total of 45,000 acres of the Coastal Plain as Special Areas and close such areas to leasing if the Secretary determines that these Special Areas are of such character and nature as to require special management and regulatory protection. The Secretary may, however, permit leasing of all or portions of any Special Areas within the Coastal Plain by setting a temporary limit or condition surface use and occupancy by lessees of such lands but permit the use of horizontal drilling technology from sites on leases located outside the designated Special Areas.

(g) LIMITATION ON CLOSED AREAS.—The Secretary’s sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is set forth in this subtitle.

(h) CONVEYANCE.—In order to maximize federal revenues by removing clouds on title of lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 130(h)(2) of the Alaska Native Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), is authorized to enter into transfers with the Kotzebue Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the corporate character and interests stated in section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611), and (2) to the Arctic Slope Regional Corporation the subsurface estate of such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 3334. RULES AND REGULATIONS.

(a) PROMULGATION.—The Secretary shall prescribe rules and regulations necessary to carry out the purposes and provisions of this chapter, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and the environment of the Coastal Plain. Such rules and regulations shall be promulgated no later than fourteen months after the date of enactment of this chapter and shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this chapter and all operations on the Coastal Plain related to the leasing, exploration, development, and production of oil and gas.

(b) REPEAL.—The Secretary shall periodically review and, if appropriate, reissue the rules and regulations issued under subsection (a) of this section that are no longer significant biological, environmental, or engineering data which come to the Secretary’s attention.

SEC. 3335. ADEQUACY OF THE DEPARTMENT OF THE INTERIOR’S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.

The “Final Legislative Environmental Impact Statement” (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3141 and 3142) and section 1021(c) of the National Environmental Policy Act of 1969 (42
S.C. 4332(2)(C)) is hereby found by the Congress to be adequate to satisfy the legal and procedural requirements of the National Environmental Policy Act of 1969 with respect to actions authorized by this chapter. The Secretary shall promulgate such regulations as are necessary or appropriate for the protection of the environment and the public interest. The Secretary shall, by regulation, provide for lease sales of lands to be leased on the Coastal Plain for inclusion in, or exclusion from (as provided in subsection (c)) from, a lease sale; and public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALES ON COASTAL PLAIN.—The Secretary, to conduct the first lease sale, may, in his discretion, offer the following areas with terms and conditions as the Secretary may prescribe at his discretion: (1) be for a tract consisting of a compact area not to exceed five thousand seven hundred sixty acres, or nine surveyed or protracted sections which shall be as compact in form as possible.

(2) be for an initial period of ten years and shall be extended for so long thereafter as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or for so long as drilling or reworking operations, as approved by the Secretary, are conducted on the lease or unit area;

(3) require the payment of royalty as provided for in section 5327 of this chapter;

(4) require the beginning of production activities pursuant to any lease issued or maintained under this chapter shall be conducted in accordance with an exploration or development plan of such lease approved by the Secretary;

(5) require that all development and production pursuant to a lease issued or maintained pursuant to this chapter shall be conducted in accordance with development and production plans approved by the Secretary;

(6) require providing of bond as required by section 5339 of this chapter;

(7) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect critical fish and wildlife;

(8) provide such provisions relating to rental and other fees as the Secretary may prescribe at the time of offering the area for lease;

(9) provide that the Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms and conditions so as to conserve the resource or where there is no available system to transport the resource. If such a suspension is directed or assented to by the Secretary, the provisions of the applicable lease, as prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding thereto the period during which operations are suspended;

(10) provide that whenever the owner of a nonproducing lease fails to comply with any of the provisions of this chapter, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this chapter, such lease may be forfeited during such period of suspension of operations and production, and the term of the lease shall be extended by adding thereto the period during which operations are suspended;

(11) require that the holder of a lease or leases under this chapter be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration or development activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(12) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this chapter. The Secretary shall, by regulation, provide for lease sales of lands to be leased on the Coastal Plain for inclusion in, or exclusion from (as provided in subsection (c)) from, a lease sale; and public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

SEC. 5339. BONDING REQUIREMENTS TO ENSURE FINANCIAL RESPONSIBILITY OF LESSSEE AND AVOID FEDERAL LIABILITY.

(a) REQUIREMENT.—The Secretary shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface disturbing activities on any lease, to ensure that complete and prompt reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. Such bond, surety, or financial arrangement is in addition to, and not in lieu of, any bond, surety, or financial arrangement required by any other regulations or authority or required by any other provision of law.

(b) AMOUNT.—The bond, surety, or financial arrangement shall be in an amount:

(1) to be determined by the Secretary to provide for reclamation of the lease tract, in accordance with an approved or revised exploration or development plan, and for reclamation of lands as are necessary for the protection of the United States against drainage;

(2) to provide that the holder of a lease, its agents, and contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing Section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State; and

(3) to contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this chapter.

SEC. 5340. OTHER PROVISIONS.

(a) EXPANSION.—The Secretary shall, if he determines that an expansion of the area included in a lease would be in the public interest, may at any time prior to thirty months after the date of enactment of this chapter, or at any time thereafter, upon application by the lessee, to a higher or better use as approved by the Secretary;

(b) TERMINATION.—The provisions of this chapter shall not be deemed to apply to any lease issued pursuant to this chapter and shall be deemed to be terminated as of the time of offer.

SEC. 5341. CERTIFICATION AND RELINQUISHMENT.

(a) CERTIFICATION.—The Secretary, to conduct the first lease sale, may, in his discretion, offer the following areas with terms and conditions as the Secretary may prescribe at his discretion: (1) be for a tract consisting of a compact area not to exceed five thousand seven hundred sixty acres, or nine surveyed or protracted sections which shall be as compact in form as possible.

(2) be for a initial period of ten years and shall be extended for so long thereafter as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or for so long as drilling or reworking operations, as approved by the Secretary, are conducted on the lease or unit area;

(3) require the payment of royalty as provided for in section 5327 of this chapter;

(4) require that the holder of a lease or leases under this chapter be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration or development activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(5) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this chapter. The Secretary shall, by regulation, provide for lease sales of lands to be leased on the Coastal Plain for inclusion in, or exclusion from (as provided in subsection (c)) from, a lease sale; and public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) RELINQUISHMENT.—The Secretary shall, by regulation, provide for lease sales of lands to be leased on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of the first lease sale. The Secretary shall offer for lease those acres receiving the greatest number of nominations, but no less than two hundred thousand acres and no more than three hundred thousand acres shall be offered. If the total acreage nominated is less than two hundred thousand acres, the Secretary shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres of the Coastal Plain be offered in such sale. With respect to subsequent lease sales, the Secretary shall offer for lease no less than two hundred thousand acres of the Coastal Plain. The initial lease sale shall be held within twenty months of the date of enactment of this chapter. The second lease sale shall be held no later than twenty-four months after the initial sale, with additional sales conducted no later than twelve months thereafter so long as such sales are conducted under a written warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 5337. GRANT OF LEASES BY THE SECRETARY.

(a) GENERAL.—The Secretary, to conduct the first lease sale, may, in his discretion, offer the following areas with terms and conditions as the Secretary may prescribe at his discretion: (1) be for a tract consisting of a compact area not to exceed five thousand seven hundred sixty acres, or nine surveyed or protracted sections which shall be as compact in form as possible.

(2) be for an initial period of ten years and shall be extended for so long thereafter as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or for so long as drilling or reworking operations, as approved by the Secretary, are conducted on the lease or unit area;

(3) require the payment of royalty as provided for in section 5327 of this chapter;

(4) require that the holder of a lease or leases under this chapter be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration or development activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(5) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this chapter. The Secretary shall, by regulation, provide for lease sales of lands to be leased on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of the first lease sale. The Secretary shall offer for lease those acres receiving the greatest number of nominations, but no less than two hundred thousand acres and no more than three hundred thousand acres shall be offered. If the total acreage nominated is less than two hundred thousand acres, the Secretary shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres of the Coastal Plain be offered in such sale. With respect to subsequent lease sales, the Secretary shall offer for lease no less than two hundred thousand acres of the Coastal Plain. The initial lease sale shall be held within twenty months of the date of enactment of this chapter. The second lease sale shall be held no later than twenty-four months after the initial sale, with additional sales conducted no later than twelve months thereafter so long as such sales are conducted under a written warrant, in the Secretary's judgment, the conduct of such sales.

(b) ANTI-TRUST REVIEW.—Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based thereon, the Secretary shall, by regulation, provide for lease sales of lands to be leased on the Coastal Plain upon payment of a bonus, the terms, and conditions of which shall be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall not be less than $2 per centum in amount or value of the production removed or sold from the lease;

(c) ANTI-TRUST REVIEW.—Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based thereon, the Secretary shall, by regulation, provide for lease sales of lands to be leased on the Coastal Plain upon payment of a bonus, the terms, and conditions of which shall be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall not be less than $2 per centum in amount or value of the production removed or sold from the lease;

(d) IMMUNITY.—Nothing in this chapter shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create a defense from or against any suit, action, or proceeding brought by the Secretary under this chapter; or to any suit, action, or proceeding brought by the Secretary under this chapter. The Secretary shall accept such relinquishment by the lessee of any lease issued pursuant to this chapter. The Secretary shall accept such relinquishment by the lessee of any lease issued pursuant to this chapter where there has not been a material disturbance on the lands covered by the lease;

(e) ANTI-TRUST LAW.—Nothing in this chapter shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create a defense from or against any suit, action, or proceeding brought by the Secretary under this chapter.
means for rapid and effective cleanup, and to minimize damages resulting from an oil spill, the escape of gas, refuse, domestic wastewater, hazardous or toxic substances, or fire caused by oil and gas production or other activities.

(c) Adjustment.—In the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond, surety, or other financial arrangement to conform to such modified plan.

(d) Duration. The responsibility and liability of the lessee and its surety, under the bond, surety, or other financial arrangement shall continue until such time as the Secretary determines that there has been compliance with the terms and conditions of the lease and all applicable law.

(e) Termination.—Within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary, after consultation with affected Federal and State agencies, shall notify the lessee that the period of liability under the bond, surety, or other financial arrangement has been terminated.

SEC. 5340. OIL AND GAS INFORMATION.

(a) In General.—(1) Any lessee or permittee, in good faith, may request from, or obtain information from, the Secretary with respect to any condition or part of a condition the Secretary determines to be material to the lessee or permittee, which could have been obtained under this chapter; and

(b) Regulations. The Secretary shall prescribe regulations which the Secretary shall promulgate to regulate the publication of information which could have been obtained under this chapter.

SEC. 5341. EXPEDITED JUDICIAL REVIEW.

(a) Any complaint seeking judicial review of any provision of this chapter, or any development or production of oil or gas pursuant to this chapter shall provide the Secretary access to all data and information from any lease granted pursuant to this chapter, which are pertinent to occupational or public safety, health, or environmental protection, as may be requested.

(b) On-Site Inspection. The Secretary shall promulgate regulations to provide for—

(1) scheduled on-site inspection by the Secretary; at least twice a year, on each facility on the Coastal Plain which is subject to any environmental or safety regulations promulgated pursuant to this chapter; and

(2) periodic on-site inspection by the Secretary at least once a year without notice to or advance notice of the lessee or permittee, in such other form and manner of processing which is utilized by such lessee or permittee, in the form and manner of processing which is utilized by such lessee or permittee, in such other form and manner of processing which is utilized by such lessee or permittee.

(c) Responsibility of the Secretary. The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this chapter.

SEC. 5342. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

Notwithstanding Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.), the Secretary is authorized and directed to grant, in accordance with regulations which the Secretary shall promulgate, (1) through (y) of the Mineral Leasing Act of 1920 (30 U.S.C. 185), rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The regulations issued as required by section 5343 of this chapter shall include provisions granting rights-of-way and easements across the Coastal Plain.

SEC. 5343. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS TO ENSURE COMPLIANCE WITH TERMS AND CONDITIONS OF LEASE.

(a) Responsibility of the Secretary. The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this chapter.

(b) Responsibility of Holders of Lease.—It shall be the responsibility of any holder of a lease under this chapter to—

(1) maintain operations within such lease area in compliance with regulations intended to protect persons and property on, and fish and wildlife, their habitat, subsistence resources, and the environment of the Coastal Plain; and

(2) allow prompt access at the site of any operations subject to regulation under this chapter to any appropriate Federal or State inspector, such inspector to be provided with such documents and records which are pertinent to occupational or public safety, health, or environmental protection, as may be requested.

(c) On-Site Inspection. The Secretary shall promulgate regulations to provide for—

(1) scheduled on-site inspection by the Secretary; at least twice a year, on each facility on the Coastal Plain which is subject to any environmental or safety regulations promulgated pursuant to this chapter or conditions contained in any lease issued pursuant to this chapter, which are pertinent to occupational or public safety, health, or environmental protection; and

(2) periodic on-site inspection by the Secretary at least once a year without notice to or advance notice of the lessee or permittee, in such other form and manner of processing which is utilized by such lessee or permittee.

SEC. 5344. NEW REVENUES.

(a) Distribution of Revenues.—(1) Notwithstanding any other provision of law, all revenues received by the Federal Government from competitive bids, sales, bonuses, royalties, rents, and fees, from the leasing of oil and gas within the Coastal Plain shall be deposited in the Treasury of the United States, solely as provided in this subsection.

(b) Use of New Revenues. Monies from the new revenues shall be used for—

(1) Twenty-five percent shall be used for acquisition of important habitat lands for threatened or endangered species from owners of private property. Such lands shall be purchased solely on a willing seller basis and shall be managed by the Secretary for the conservation of such species pursuant to the terms of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1535).

(2) Twenty-five percent shall be available for wetlands projects in accordance with the applicable provisions of the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

(c) Community Assistance.—There is hereby established a Community Assistance Fund in the Treasury into which shall be deposited $30,000,000 from revenues derived from the federal share of the first lease sale authorized under this chapter. The Secretary of the Treasury shall deposit the amounts available for the Community Assistance Fund in interest bearing government securities. No more than $5,000,000 per year from the Community Assistance Fund shall be available to the Secretary for distribution upon application and without further appropriation, to organized boroughs, other municipal subdivisions of the State of Alaska, and recognized Indian Reorganization Act entities which are directly impacted by the exploration and production of oil and gas on the Coastal Plain authorized by this chapter to provide public and social services and facilities required in connection with such activities.

CHAPTER 3—WATER PROJECTS

Subchapter A—Irrigation Prepayment

SEC. 5351. AUTHORIZATION FOR PREPAYMENT OF CONSTRUCTION CHARGES.

Subsection 213(a) of the Reclamation Reform Act of 1982 (96 Stat.1269, 43 U.S.C. 390nn(a)) is amended:

(1) by adding at the beginning—

"Notwithstanding any provision of Reclamation law or limitation contained in any repayment or water service contract, any person or organization in excess of the amount shall be deposited into the Treasury from such oil and gas leases in excess of $2,600,000,000 shall be distributed as follows:

(1) Fifty percent shall be paid to the State of Alaska in the manner provided in this subsection; and

(ii) Fifty percent shall be deposited into a special fund established in the Treasury of the United States known as the "National Park, Refuge, and Fish and Wildlife Renewal and Reinvestment Fund" (hereinafter in this section referred to as the "renewal fund")."

(B) Deposits into the renewal fund shall not exceed $250,000,000 over the life of the renewal fund. The Secretary may use such amounts shall be deposited as miscellaneous receipts in the Treasury of the United States.

(C) Deposits into the renewal fund shall remain available until expended. The Secretary of the Treasury is directed to develop procedures for the use of the renewal fund to ensure accountability and demonstrated results.

SEC. 5352. USE OF SUBSIDIES. Any subsidies from the renewal fund shall be made available to the Secretary of the Interior, without further appropriation, at the beginning of each fiscal year in which funds are available, and shall be expended by the Secretary as follows:

(1) Twenty-five percent shall be used for infrastructure needs at units of the National Park System, including but not limited to, facility refurbishment, repair and replacement, interpretive media and exhibit repair and replacement, and infrastructure projects associated with refuge projects.

(2) Twenty-five percent shall be available for acquisition of important habitat lands for threatened or endangered species from owners of private property. Such lands shall be purchased solely on a willing seller basis and shall be managed by the Secretary for the conservation of such species pursuant to the terms of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1535).

(3) Twenty-five percent shall be available for wetlands projects in accordance with the applicable provisions of the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

(4) Twenty-five percent shall be available for wetlands projects in accordance with the applicable provisions of the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

(c) For fiscal years 2017 through 2020, twenty-five percent of the amounts deposited into the renewal fund shall be deposited into a Community Assistance Fund in the Treasury of the United States, solely as provided in this subsection. The Community Assistance Fund shall be established in the Treasury of the United States, solely as provided in this subsection. The Community Assistance Fund shall be established in the Treasury of the United States, solely as provided in this subsection.

(b) Use of New Revenues. Monies from the new revenues shall be used for—

(1) Twenty-five percent shall be used for acquisition of important habitat lands for threatened or endangered species from owners of private property. Such lands shall be purchased solely on a willing seller basis and shall be managed by the Secretary for the conservation of such species pursuant to the terms of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1535).

(2) Twenty-five percent shall be available for wetlands projects in accordance with the applicable provisions of the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

(c) Community Assistance.—There is hereby established a Community Assistance Fund in the Treasury into which shall be deposited $30,000,000 from revenues derived from the federal share of the first lease sale authorized under this chapter. The Secretary of the Treasury shall deposit the amounts available for the Community Assistance Fund in interest bearing government securities. No more than $5,000,000 per year from the Community Assistance Fund shall be available to the Secretary for distribution upon application and without further appropriation, to organized boroughs, other municipal subdivisions of the State of Alaska, and recognized Indian Reorganization Act entities which are directly impacted by the exploration and production of oil and gas on the Coastal Plain authorized by this chapter to provide public and social services and facilities required in connection with such activities.
and the Secretary shall determine the repayment obligations associated with the construction costs of the project facilities so that accelerated payments or a lump sum payment may be made. The amount of such repayment shall be calculated by discounting the remaining payments due under a contract in accordance with the guidelines set forth in Circular A-129 issued by the Comptroller General and Budget. Provided, That the discount shall be adjusted by any amounts necessary to compensate the Federal Government for the direct or indirect loss of future income or earnings which would have been obtained were the individual or district plans to use federally tax-exempt financing for such prepayment; (2) by striking "lands in a district" and inserting "lands in a district or, lands owned or leased by a person"; (3) by striking "of a district" and inserting "of a district or a person"; (4) by striking "enactment of this Act." and inserting: "enactment of this Act or as otherwise provided for in this section. Any additional capital costs incurred after the date of such prepayment shall be recoverable as a separate obligation and shall not be considered to be a new or supplemental benefit for the purposes of this act nor cause the full cost pricing limitation of this Act on the operation of the project facilities contained in any provision of federal reclamation law to apply to the lands to which such capital costs apply.

SEC. 3532. CONFORMING AMENDMENT.

Subsection 213 (c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390 mm (c)) is repealed.

Subchapter B—Hetch Hetchy

SEC. 3533. HETCH HETCHY DAM.

Section 7 of the Act of December 19, 1913 (38 Stat. 516), as amended—

(1) by striking "$30,000" in the first sentence and inserting "$2,000,000"; and

(2) by amending the second and third sentences to read as follows: The funds shall be placed in a separate fund by the United States and, notwithstanding any other provision of law, shall not be available for obligation or expenditure until appropriated by the Congress. The highest priority of the funds shall be for annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in the State of California.

Subchapter C—Colbran Project

SEC. 3535. COLBRAN PROJECT.

(a) Short Title. This subchapter may be cited as the "Colbran Project Unit Conveyance Act".

(b) Definitions. For purposes of this subchapter:

(1) Districts. The term "Districts" means the Ute Water Conservancy District and the Collbran Conservancy District (including their successors and assigns), which are political subdivisions of the State of Colorado.


(3) Project. The term "Project" means the Collbran Conservancy Project, as constructed and operated under the Act of July 3, 1952 (66 Stat. 325, chapter 565), including all property, equipment, and assets of or relating to the Project that are owned by the United States, including—

(A) Vega Dam and Reservoir (but not including The Vega Recreation Facilities);

(B) East Fork Diversion Dam and Feeder Canal;

(C) Southside Canal;

(D) East Fork Division Dam and Feeder Canal;

(E) Bonham-Cottonwood Pipeline;

(F) Snowshed and Diesel Storage;

(G) Upper Molina Penstock and Power Plant;

(H) Lower Molina Penstock and Power Plant;

(I) the diversion structure in the tailrace of the Lower Molina Power Plant;

(J) all substations and switchyards;

(K) all rights-of-way facilities for the use of existing easements or rights-of-way owned by the United States on or across nonfederal lands which are necessary for access to Project facilities;

(L) title to lands reasonably necessary for all Project facilities except for land described in subparagraph (C)(II)(B) of this Act; or (C) of this Act; or (M) permits and contract rights held by the Bureau of Reclamation, including, without limitation, contract or other rights relating to the operation, maintenance, repair, replacement, or lease of the water storage reservoirs located on the Grand Mesa which are operated as a part of the Project;

(N) all equipment, parts inventories, and tools;

(O) all additions, replacements, betterments, and appurtenances to any of the above; and

(P) a copy of all data, plans, designs, reports, records, or other materials, whether in writing or in any form of electronic storage relating specifically to the Project.

(4) Vega Recreation Facilities. The term "Vega Recreation Facilities" includes, but are not limited to, buildings, campgrounds, picnic areas, parking lots, docks and ramps, electrical lines, water and sewer systems, trash and toilet facilities, roads and trails, and other structures and equipment used for State park purposes, such as fishing, boating, and hunting or for other outdoor recreation purposes, and the opportunity for consultation with the designated representative of the Secretary of the Interior for non-routine, non-emergency activities that occur on such easements.

(c) Conveyance of the Collbran Project. (1) IN GENERAL. The Secretary of the Interior shall convey to the Districts—

(A) Conveyance to Districts. The Secretary of the Interior shall convey to the Districts all right, title, and interest in the Vega Recreation Project; (ii) a non-exclusive easement on National Forest System lands to the Districts for the use, operation, and maintenance of the water storage reservoirs located on the Grand Mesa which are necessary for access to Project facilities; and (iii) a non-exclusive easement on and across the Southside Canal, and the opportunity for consultation with the designated representative of the Secretary of the Interior for non-routine, non-emergency activities that occur on such easements.

(b) Reservation. The transfer of rights and interests pursuant to paragraphs (1)(A), (B), and (C) shall reserve to the United States all minerals, including hydrocarbons, and a perpetual right of public access over, across, under, and to the portions of the Project which on the date of enactment of this Act were open to the public for non-federal purposes at and near Vega Reservoir such as grazing, mineral development and logging. Provided, That the United States may allow for continued public use and enjoyment of such portions of the Project for recreational activities and other public uses conducted as of the date of enactment of this Act.

(d) Conveyance to State of Colorado. All right, title, and interest in the Vega Recreation Facilities shall remain in the United States until the terms of the agreements referred to in paragraph (1)(A), (B), and (C) have been fulfilled. At such time, the United States shall deposit $12,000,000 ($12,300,000) in the United States Treasury; and

(e) Payment. (A) IN GENERAL. At the time of transfer, the Districts shall pay to the United States $12,900,000 ($12,300,000) of which represents the net present value of the outstanding repayment obligations for the Project facilities and the storage reservoirs on the Grand Mesa.

(B) Eastern National Forest System Lands. The Secretary of Agriculture shall grant, in the last quarter of fiscal year 2000, subject only to the requirements of this section; (i) a non-exclusive easement on and across the Eastern National Forest System lands to the Districts for ingress and egress on existing access routes to each existing component of the Project and to the existing storage reservoirs on the Grand Mesa which are operated as a part of the Project; (ii) a non-exclusive easement on National Forest System lands for the operation, use, and maintenance of the existing storage reservoirs on the Grand Mesa to the owners and operators of such reservoirs which are operated as a part of the Project; which easement may be exercised in the event that the existing land use authorizations for such storage reservoirs are re-"
The power component and facilities of the agreements.

reational facilities at Vega Reservoir, which United States and the State of Colorado dated shall be subject to the agreements between the successors or assigns).

made available to and be marketed by the West-generated by operation of the Project shall be
ties in accordance with sound engineering prac-
ies Commissioners of Mesa County, Colorado,
the Secretary of Agriculture, the Board of Coun-
ing year, which shall be prepared after con-
Project operations anticipated for the forthcom-

for authorized purposes within the State of Col-
empt from taxation under section 103 of the In-

determined, however, That no such sale may occur at
pursuant to section 24 of the Federal Power Act
the President, the Secretary of the Interior, or
deemed to meet the licensing standards of the
provisos of section 4(e); section 6 to the extent it

the power component of the Project as part of the output
ut for authorized purposes within the State of Col-

rates less than rates established in accordance with clause (ii) unless such power is first offered at such lesser rate first to Western and then to its SLCAIP preference customers.

Preceded or replaced by the Project, shall be vacated by operation of the Project as authorized

by operation of the Project by the Districts that
requirements of the Project shall be vacated by operation of

the licensing of a hydroelectric project shall apply to the project upon expiration of the li-
cense issued under this section.

For purposes of this section, “Commission” means the Federal Energy Regulatory Commis-

The operation of the Project shall be subject to all applicable state and federal laws sub-
ínance applied for the issuance of the license pursuant to paragraph (1).

Neither the conveyance of the Project nor the issuance of payments pursuant to this section constitutes a major Federal action within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including any regulations issued under such

Inapplicability of Prior Agreements and of Federal Reclamation Laws.—On convey-
ance of the Project to the Districts—

The Repayment Contract dated May 27, 1957, as amended April 12, 1962, between the Colllbran Conservancy District and the United States, and the Contract for use of Project fa-
cilities for Diversion of Water dated January 11, 1962, as amended November 10, 1977, between the Ute Water Conservancy District and the United States, shall be terminated and of no further

The Secretary shall, on or before December 31, 1997, and upon receipt of all receipts and payments for which the Project was authorized, convey to the Districts the Project.

power shall then be offered at the same rates
with its affected preference customers, such
 inocated with clause (ii) unless such power is first offered at

The term “Secretary” means the Secretary of the Interior.

The term “Sly Park Unit” means the Sly

tional marketing area (referred to in this section as the “SLCAIP customers”). Therefore, such power may be sold to any other party: Pro-

for purposes of this subchapter:

The term “El Dorado Irrigation District” or “District” means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its

The Sales of assets under this subchapter shall not be considered a disposal of Federal surplus property under the following provisions of law:

(3) The term “Clean Water Act” is defined in section 22(a) of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1256 et seq.), the

(4) Any power site reservation established by the President, the Secretary of the Interior, or pursuant to section 24 of the Federal Power Act (16 U.S.C. 791 et seq.) or any other law which exists on any lands, whether federally or privately owned, that are included within the boundaries of the project shall be vacated by operation of law under the subsection (c) or (e) of section 24 of the Federal Power Act or of any other Act applicable to

Conveyance of the Project shall offer all power produced by the power component of the Project to the Western Area Power Administration or its successors or assigns (referred to in this section as “Westen”), which, in consultation with its affected preference customers, shall have the right to purchase such power at rates established in accordance with clause (ii). If Western de-
clines to purchase the power after consultation with its affected preference customers, such power shall be offered to the following entities:

Sales for Purposes of Certain Laws.—The sales of assets under this subchapter shall not be considered a disposal of Federal surplus property under the following provisions of law:

That the Project shall no longer be subject to or governed by the Federal reclamation laws.

(3) The term “El Dorado Irrigation District” or “District” means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its

(2) The term “Secretary” means the Secretary of the Interior.

The term “Sly Park Unit” means the Sly

The term “El Dorado Irrigation District” or “District” means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its

The Secretary shall, on or before December 31, 1997, and upon receipt of all receipts and payments for which the Project was authorized, convey to the Districts the Project.

The Sales of assets under this subchapter shall not be considered a disposal of Federal surplus property under the following provisions of law:

(2) the Project shall no longer be subject to or

The term “El Dorado Irrigation District” or “District” means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its

The term “Secretary” means the Secretary of the Interior.

The term “Sly Park Unit” means the Sly

That the Project shall no longer be subject to or governed by the Federal reclamation laws.

The term “Secretary” means the Secretary of the Interior.
conveyed, the Secretary shall also transfer and assign to the District the water rights relating to the Sly Park Unit held in trust by the Secretary for diversion and storage under California State permit numbers 10473, 10474, and 10475.

(2) **SALE PRICE.**—The sale price for the Sly Park Unit shall be $3,993,962, which is the outstanding balance for the original construction of the Sly Park Unit, as adjusted on the basis of the type of prepayment of the Sly Park Unit operation, facilities, and water rights have been, and after the sale and transfer will continue to be, committed to maximum reasonable and beneficial use for existing services, and (C) the sale, conveyance and assignment of the Sly Park Unit and water rights does not affect the additional growth or expansion of the project or other environmental impacts. Consequently, the sale, conveyance and assignment of the Sly Park Unit and water rights under this section does not affect the sale, conveyance and assignment of the Sly Park Unit to enforement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4332) or endangered species review or consultation pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536).

(e) **CERTAIN CONTRACT OBLIGATIONS NOT AFFECTED.**—The sale of the Sly Park Unit under this section shall not affect the performance of obligations of the District under the contract between the District and the Secretary numbered 14-06-200-7734, as amended by contracts numbered 14-06-200-8536, 14-06-200-8536A.

(f) **TREATMENT OF SALES FOR PURPOSES OF CERTAIN LAWS.**—The sales of assets under this subchapter shall not be considered a disposal of Federal surplus property under the following provisions of law: (1) Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484). (2) Section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

Subchapter E—Central Utah Project

**SEC. 5357. PREPARYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.**

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: "The Secretary shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under terms and conditions similar to those contained in the supplemental contract for the repayment of the Jordan Aqueduct dated October 28, 1993. The prepayment may be provided in several installments to reflect substantial completion of the delivery facilities being prepaid and may not be adjusted on the basis of the type of prepayment financing utilized by the District. Provided That the District shall complete all payments authorized pursuant to this section by the end of fiscal year 2002."

**CHAPTER 4—FEDERAL OIL AND GAS ROYALTIES**

**SEC. 5361. DEFINITIONS.**

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended—

(1) by amending paragraph (7) to read as follows:

(7) ‘lessee’ means any person to whom the United States issues an oil and gas lease or any person to whom written permission to engage in leasing in a lease has been assigned; and

(2) by striking ‘and’ at the end of paragraph (16), by striking ‘at’ before the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

(17) ‘adjustment’ means an amendment to a previously filed report on the obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on a lease;

(18) ‘additional proceeding’ means any Department of Interior agency process in which a decision, decision or order issued by the Secretary or a delegated State is subject to appeal or has been appealed;

(19) ‘assessment’ means any fee or charge levied or imposed by the Secretary or a delegated State—

(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

(B) any interest; or

(C) any civil or criminal penalty;

(20) ‘commence’ means—

(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, crossclaim, or other pleading seeking affirmative relief or seeking factual proof or recovery; or

(B) with respect to the receipt by the Secretary or a delegated State of a lessee of the demand;

(21) ‘credit’ means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

(22) ‘demand’ means a State which, pursuant to an agreement or agreements under section 205, performs authorities, duties, responsibilities, or activities of the Secretary which may be performed by a State under the Constitution of the United States for all lands within the State, including, but not limited to—

(A) activities under sections 111 and 115;

(B) collection, audit, lease and post-lease management activities, and applicable enforcement activities;

(C) inspections (including activities described in section 108);

(D) approval of pooling, unitization, and communication agreements; and

(E) investigations;

(23) ‘demand’ means—

(A) an order to pay issued by the Secretary or the applicable delegated State that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing, or

(B) a separate written request by a lessee that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing, but does not mean any royalty or production report, or any information contained therein, required by the Secretary or a delegated State;

(24) ‘obligation’ means—

(A) any duty of the Secretary or, if applicable, a delegated State—

(i) to take oil or gas royalty in kind at or near the lease (unless the lease expressly provides for delivery at a different location); or

(ii) to pay, refund, offset, or credit monies including but not limited to—

(1) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

(2) any interest;

(3) any penalty; or

(4) any assessment, which arises from or relates to any lease administered by the Secretary for the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

(B) ‘overpayment’ means a written order issued by the Secretary or the applicable delegated State which—

(1) is a specific, definite, and quantified obligation claimed to be due, and

(2) specifically identifies the obligation by lease, production month and monetary amount, and any legal condition or requirement that may be carried out by the Secretary or a delegated State;

(25) ‘order’ to pay means a written order issued by the Secretary or the applicable delegated State which—

(A) asserts a specific, definite, and quantified obligation claimed to be due, and

(B) specifically identifies the obligation by lease, production month and monetary amount, and any legal condition or requirement that may be carried out by the Secretary or a delegated State;
the authorities, duties, responsibilities, and activities under this title which are subject to delegation, based on the recommendations of the States concerned following consultation with affected States or the Secretary. The Secretary, in examining any such recommendations, may not take any action other than to provide for flexibility to a State to perform any authority, duty, responsibility or activity delegated under this title consistent with subsection (c)."

SEC. 353. SECRETARIAL AND DELEGATED STATES’ ACTIONS AND LIMITATION PERIODS.

IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

``SEC. 115. SECRETARIAL AND DELEGATED STATES’ ACTIONS AND LIMITATION PERIODS.

(a) IN GENERAL.—All duties, responsibilities, and activities under this section shall be performed by the Secretary, delegated States, and lessees in a timely manner.

(b) LIMITATION PERIOD.—(1) A judicial proceeding or demand which arises from, or relates to, an obligation shall be commenced within six years from the date on which the obligation becomes due and if not so commenced shall be barred. The Secretary, a delegated State, or a lessee (A) shall not take any other or further action regarding that obligation, including (but not limited to) the issuance of any other or further demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty, or any further or other audit or investigation or the initiation of any judicial proceeding, until the expiration of such limitation period; and (B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to any action on or an enforcement of said obligation.

(2) The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, and section 35(b) of the Mineral Leasing Act (30 U.S.C. 172-2) shall not apply to any obligation to which this Act applies. Section 3716 of title 51, United States Code, may be applied to any obligation, which is not barred by this Act, but may not be applied to any obligation the enforcement of which is barred by this Act.

(c) OBLIGATION BECOMES DUE.—

(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

(2) ROYALTY OBLIGATIONS.—The right to enforce any royalty obligation for any given production month for a lease is fixed for purposes of the limitation period on the first day of the calendar month following the month in which oil or gas is produced.

(d) TOLLING OF LIMITATION PERIOD.—The running of the limitation period under subsection (b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or a delegated State, other than the following:

(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary or a delegated State and a lessee which tolls the limitation period for the amount of time during which the agreement is in effect.

(2) SUBPOENA.—

(A) The issuance of a subpoena to a lessee in accordance with the provisions of subsection (B) shall toll the limitation period with respect to the obligation which is the subject of the subpoena only for the period beginning on the date the lessee receives the subpoena and ending on the date on which (i) the lessee has produced such subpoenaed records for the subject obligation, (ii) the Secretary or a delegated State receives written notice that the subpoenaed record or records for a lease which the State has ordered an in-depth audit of a lessee when the Secretary has performed such an audit of a lessee that the lessee has demonstrated underpayments or overpayments which are significant, (iii) a court has determined in a final decision that such records are not required to be produced by the lessee, or (iv) a court has determined that the lessee is not required to perform the accounting, whichever occurs first.

(B) A subpoena for the purposes of this section which requires a lessee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued by only an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior, only when the lessee is a public employee (as defined by section 213.330 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority under section 205, the State, acting through the highest elected official having ultimate authority over the collection of royalties from leases on Federal land located within the State, may issue such subpoena, but may not delegate such authority to any other person.

(e) S TATE ACTIONS.ÐSection 204 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1734) is amended by adding at the end the following:

``(d) With respect to enforcement of an obligation under this Act, a State bringing an action under this section shall enjoy no greater rights than the Secretary enjoys under this Act."

(f) SAVINGS PROVISION.—Nothing in the amendments made by this section shall impair any authority or extension thereof granting under section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735) is amended by striking "the Secretary or a delegated State, other than the Secretary, shall not take any other or further action regarding that obligation, including (but not limited to) the issuance of any other or further demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty, or any further or other audit or investigation or the initiation of any judicial proceeding, until the expiration of such limitation period; and (B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to any action on or an enforcement of said obligation." and inserting the following: "(I) A judicial proceeding or demand which arises from, or relates to, an obligation shall be commenced within six years from the date on which the obligation becomes due and if not so commenced shall be barred. The Secretary, a delegated State, or a lessee (A) shall not take any other or further action regarding that obligation, including (but not limited to) the issuance of any other or further demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty, or any further or other audit or investigation or the initiation of any judicial proceeding, until the expiration of such limitation period; and (B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to any action on or an enforcement of said obligation.

(2) The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, and section 35(b) of the Mineral Leasing Act (30 U.S.C. 172-2) shall not apply to any obligation to which this Act applies. Section 3716 of title 51, United States Code, may be applied to any obligation, which is not barred by this Act, but may not be applied to any obligation the enforcement of which is barred by this Act.

(e) OBLIGATION BECOMES DUE.—

(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

(2) ROYALTY OBLIGATIONS.—The right to enforce any royalty obligation for any given production month for a lease is fixed for purposes of the limitation period on the first day of the calendar month following the month in which oil or gas is produced.

(d) TOLLING OF LIMITATION PERIOD.—The running of the limitation period under subsection (b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or a delegated State, other than the following:

(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary or a delegated State and a lessee which tolls the limitation period for the amount of time during which the agreement is in effect.

(2) SUBPOENA.—

(A) The issuance of a subpoena to a lessee in accordance with the provisions of subsection (B) shall toll the limitation period with respect to the obligation which is the subject of the subpoena only for the period beginning on the date the lessee receives the notice and ending 120 days after the date on which (i) the Secretary or the applicable delegated State receives written notice that the accounting or other requirement has been performed, or (ii) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

(B) The Secretary or the applicable delegated State may issue an order to perform a restructured accounting may
not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the "Associate Director for Royalty Management," and shall not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the state, may issue such order to perform, which may not be delegated to any other person. An order to perform a restructured accounting shall—

(1) be issued within a reasonable period of time from when the audit identifies the systemic, administrative actions and investigations (including, but not limited to, record holder be required to maintain or produce any party to such proceeding shall not be entitled to a stay without bond or other surety in the event a judicial proceeding or demand subject to this Act involving obligations shall

(2) be a de novo judicial review of such deemed final decision.

(i) ENFORCEMENT OF A CLAIM FOR JUDICIAL REVIEW.—In the event a demand subject to the six-year period of limitations, and

(6) TERMINATION OF LIMITATIONS PERIOD.—An action or an enforcement of an obligation by the Secretary or delegated State or a lessee shall be barred under this section prior to the running of the six-year period provided in subsection (b) in the event—

(1) the Secretary or a delegated State has notified the lessee in writing that a time period is closed to further audit;

(2) a Secretary or a delegated State and a lessee have so agreed in writing.

(7) RECORDS REQUIRED FOR DETERMINING COLLECTION AND REPORTING.—In addition to the records required by section 105(b), the Secretary or the applicable delegated State shall maintain such records until the expiration of any applicable limitations period.

(8) The 30-month period may be extended by any party to such proceeding shall not be entitled to a stay without bond or other surety in the event a judicial proceeding or demand subject to this Act involving obligations shall

(9) The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior notice to the Secretary of the applicable delegated State of an adjustment.

(10) SEC. 5364. ADJUSTMENT AND REFUNDS.

(a) ADJUSTMENTS TO ROYALTIES PAID TO THE SECRETARY OR A DELEGATED STATE.—

(1) If, during the adjustment period, a lessee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee shall make such adjustment or request a refund within the applicable period during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior notice to the Secretary of the applicable delegated State of an adjustment.

(2) (A) For any adjustment, the lessee shall calculate and report the interest due attributable to such adjustment at the rate the lessee adjusts the principal amount of the subject obligation, except as provided by subparagraph (A).

(3) (A) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary or the applicable delegated State, as appropriate, during an audit of the period which includes the production month for which the adjustment is being made. If an audit is not identified during an audit, then the Secretary or the applicable delegated State, as appropriate, shall allow a credit or refund in the amount of the overpayment.

(b) REFUNDS.—

(i) IN GENERAL.—A request for refund is sufficient if it is made in writing to the Secretary and for purposes of section 5364.5, is reasonably identified as a demand; and

(ii) SPECIFIES.—(A) The terms of section 123.3301 of title 17 U.S.C. (as defined by section 213.4301 of title 17 U.S.C.) are hereby amended by inserting a paragraph after paragraph (f) as follows:

(j) ENFORCEMENT OF A CLAIM FOR JUDICIAL REVIEW.—In the event a demand subject to this section is properly and timely issued, the obligation which is the subject of the demand may be enforced by the Secretary or any delegated State without being barred by this statute of limitations. In the event a demand subject to this section is properly and timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding

(k) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and in the event the Secretary or any delegated State lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

(l) STATE OF PAYMENT OBLIGATION PENDING REFUND.—Any party ordered by the Secretary or a delegated State to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety in the event a judicial proceeding or demand is currently designated as the Associate Director for Royalty Management, and

(m) PROHIBITS.—In general, each party ordered by the Secretary or a delegated State to pay an assessment shall be entitled to a stay without bond or other surety in the event a judicial proceeding or demand is currently designated as the Associate Director for Royalty Management, and

(n) PROHIBITS.—In general, each party ordered by the Secretary or a delegated State to pay an assessment shall be entitled to a stay without bond or other surety in the event a judicial proceeding or demand is currently designated as the Associate Director for Royalty Management, and
overpayment for which such refund is sought; and
"(D) provides the reasons why the payment was an overpayment."
"(2) NOTICE.—The Secretary shall promptly notify each State concerned of a request for ref-
und.
"(3) PAYMENT BY SECRETARY OF THE TREAS-
URY.—The Secretary shall certify the amount of the refund to be paid upon payment of all amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands or the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury."
"(4) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an ex-
planation of the reasons for the denial) within 120 days of a request for refund filed by the Secretary or the applicable delegated State and subject to the provisions of section 662a of title 30, United States Code, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. Such refund shall be subject to later audit by the Secretary or the applicable delegated State and subject to the provisions of this Act.
(R) PROHIBITION AGAINST REDUCTION OF RE-
FUNDS OR CREDITS.—In no event shall the Sec-
retary or any delegated State directly or indi-
rectly claim or offset any amount or amounts against, or reduce any refund or credit (or inter-
est accrued thereon) by the amount of any obli-
gation for the enforcement of which is barred by section 115.
(b) CLERICAL AMENDMENT.—The table of con-
tents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 111 the following new item:
"Sec. 111A. Adjustments and refunds."
SEC. 3965. ROYALTY TERMS AND CONDITIONS, IN-
TEREST, AND PENALTIES.
(a) LESSEE INTEREST.—Section 111 of the Fed-
eral Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (a) the following:
"(h) Interest shall be allowed and paid or credited on any overpayment, with such interest to be determined in a manner similar to such overpayment, be made, at the rate obtained by adjusting the rates described in subparagraphs (A) and (B) of section 662a(a)(1) of the Internal Revenue Code of 1986, but determined without regard to the interest fol-
lowing subparagraph (B) of section 662a(a)(1). Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enact-
ment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.
(b) CLERICAL AMENDMENT.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982, as amended by subsection (a), is further amended by adding at the end the fol-
lowing:
"(i) Upon a determination by the Secretary that an overpayment (based upon all obliga-
tions of a lessee for a given reporting month) was made for the sole purpose of receiv-
ing interest, interest shall not be paid on the ex-
cess or refunded, only to the extent of the over-
payments attributable to such determination."
"(ii) The Secretary or the delegated State shall
issue any appropriate demand for all out-
standing royalty payment disputes regarding who is required to report and pay royalties on production from unit or communitization agreements outstanding on the date of the en-
actment of this subsection, and collect royalty payments due under such agreements.
"(j) Except as otherwise provided by this subsection—
(1) a lessee of a lease in a unit or communication agreement which contains only Federal leases with the same royalty rate and funds distribution shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;
(2) a lessee of a lease in any other unit or communication agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allo-
cated to the lessor in accordance with the terms of the agreement; and
(3) a lessee of a lease that is not contained in a unit or communication agreement shall re-
port and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.
(2) This subsection applies only to require-
ments for reporting and paying royalties. Noth-
ing in this subsection is intended to alter a les-
see’s liability for royalties other than the require-
ment based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communication agreement, or any other agreement.
(3) For any unit or communication agree-
ment, if all lessees contractually agree to an al-
terative method of royalty reporting and pay-
ment, the lessees may submit such alternative method to the Secretary or the delegated State for approval and make payments in accordance with such approved alternative method so long as such method does not reduce the amount of the royalty obligation.
(4) If the Secretary or the delegated State shall
grant an exception from the reporting and pay-
ment requirements by allowing for any calendar year or portion thereof
royalties to be paid each month based on the
"(ii) The Secretary or the delegated State shall
issue any appropriate demand for all out-
standing royalty payment disputes regarding who is required to report and pay royalties on production from unit or communitization agreements outstanding on the date of the en-
actment of this subsection, and collect royalty payments due under such agreements.
(II) P AYMENT PERIOD.ÐA refund under this
subsection shall be paid or denied (with an ex-
planation of the reasons for the denial) within 120 days of a request for refund filed by the Secretary or the applicable delegated State and subject to the provisions of section (a) through (c), is amended by adding at the end the following:
"(k)(1) Except as otherwise provided by this subsection—
(1) a lessee of a lease in a unit or communication agreement which contains only Federal leases with the same royalty rate and funds distribution shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;
(2) a lessee of a lease in any other unit or communication agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allo-
cated to the lessor in accordance with the terms of the agreement; and
(3) a lessee of a lease that is not contained in a unit or communication agreement shall re-
port and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.
(II) PRODUCTION ALLOCATION.ÐSection 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (a) through (c), is amended by adding at the end the following:
"(II) PRODUCTION ALLOCATION.ÐSection 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (a) through (c), is amended at the end the following:
"(I) NEW ASSESSMENT TO ENCOURAGE PROPER ROYALTY PAYMENTS.—
(1) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by this section, is further amended by adding at the end the following:
"SEC. 116. ASSESSMENTS."
"The Secretary shall make assessments and receive refunds and submit reports with re-

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lished by the Secretary or the applicable delegated
State. A lessee may designate a person to make such payments on the lessee’s behalf and shall notify the Secretary or the applicable delegated State in writing of such designation, in which event said designee may, in its own name, pay, off-
set or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee. The Secretary shall provide written notice to the lessee that such designee shall be primarily liable for its pro rata share of pay-
ment obligations under the lease. If the person
owning the legal record title in a lease is other than the operating rights owner, the person owning the legal record title shall be secondarily liable for its pro rata share of such payment obligations, but not included in the same trust.

(h) CLERICAL AMENDMENT.—The heading of section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712) is amended by adding the following:

"ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES."

SEC. 3366. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711 et seq.), as amended by section 3365 of this chapter, is further amended by adding at the end of such section the following:

"(c) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—

(1) IN GENERAL.—Within one year after the date of the enactment of this section, the Secretary or the designated State shall provide accounting, reporting, and auditing relief that will encourage production and prevent or mitigate any royalty underpayment or related noncompliance by the lessee from the leased oil and gas. Such relief shall be made available to the lessee and not be subject to a prepayment under subsection (b) or regulatory relief under subsection (c). If the State concerned does not accept such relief, the Secretary or the designated State shall provide accounting, reporting, and auditing relief that will encourage production and prevent or mitigate any royalty underpayment or related noncompliance by the lessee from the leased oil and gas. Such relief shall be made available to the lessee and not be subject to a prepayment under subsection (b) or regulatory relief under subsection (c).

(2) STATE SHARE.—A prepayment under this section shall be shared by the Secretary with the State concerned to promote production, reduce administrative costs, and increase net receipts to the United States and the States, shall jointly determine, on a case by case basis, the amount of what marginal production from a lease or leases or well or wells is not shared with any State. Prior to granting such relief, the Secretary or the State concerned shall provide accounting, reporting, and auditing relief that will encourage production and prevent or mitigate any royalty underpayment or related noncompliance by the lessee from the leased oil and gas. Such relief shall be made available to the lessee and not be subject to a prepayment under subsection (b) or regulatory relief under subsection (c). If the State concerned does not accept such relief, the Secretary or the designated State shall provide accounting, reporting, and auditing relief that will encourage production and prevent or mitigate any royalty underpayment or related noncompliance by the lessee from the leased oil and gas. Such relief shall be made available to the lessee and not be subject to a prepayment under subsection (b) or regulatory relief under subsection (c). If the State concerned does not accept such relief, the Secretary or the designated State shall provide accounting, reporting, and auditing relief that will encourage production and prevent or mitigate any royalty underpayment or related noncompliance by the lessee from the leased oil and gas. Such relief shall be made available to the lessee and not be subject to a prepayment under subsection (b) or regulatory relief under subsection (c).

SEC. 3367. REPEALS.

(a) FOGARMA.—As applicable to Federal lands, sections 202 and 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711 et seq.) and, with respect to the outer continental shelf, section 307 shall not be applicable to the production of oil and gas from Federal lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the date before the date of enactment of this Act shall continue to apply after such date with respect to such lands.

(b) OCSLA.—Effective on the date of the enactment of this Act, title 15, section 1517 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 3368. INDIAN LANDS.

The amendments and repeals made by this chapter shall not apply to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of the enactment of this Act shall continue to apply after such date with respect to Indian lands.

SEC. 3369. PRIVATE LANDS.

This chapter shall not apply to any privately owned mineral rights.

SEC. 3369a. SPECIFIC DATE.

Except as provided by section 115(f), section 111(h), section 111(k)(6), and section 117 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this chapter), this chapter, and the amendments made by this chapter, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.

CHAPTER 5—MINING

SEC. 3571. SHORT TITLE.

This chapter may be cited as "The Mining Law Reform Act of 1995."

SEC. 3572. DEFINITIONS.

When used in this chapter:

(1) "Assessment period" means the annual period commencing at 12 o'clock noon on the first day of September and ending at 12 o'clock noon on the last day of September of the following year.

(2) "Federal lands" means lands and interests in lands owned by the United States that are open to mineral location, or that were open to mineral location when a mining claim or site was located and which have not been patented under the general mining laws.

(3) "General mining laws" means those Acts which generally apply to the following:

A. Acts containing provisions for the acquisition of Federal lands and the processing of any locatable mineral or mineral resources owned by the United States, or any mineral owned by any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2201), and the mining laws of any Indian tribe, as defined in section 2, which is subject to a restriction against alienation imposed by the United States, or any mineral owned by any incorporated Native group, village corporation, or regional corporation and acquired by the group or corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

(4) "Locatable minerals" means those minerals owned by the United States and subject to location and disposition under the general mining laws, but not included in the same trust by the United States for any Indian or Indian tribe, as defined in section 2, of the Indian Mineral Development Act of 1982 (25 U.S.C. 2201), and the mining laws of any Indian tribe, as defined in section 2, which is subject to a restriction against alienation imposed by the United States, or any mineral owned by any incorporated Native group, village corporation, or regional corporation and acquired by the group or corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

(5) "Mineral activities" means any activity related to, or incidental to, exploration for or development, mining, production, beneficiation, or processing of any locatable mineral or mineral that would be locatable if it were subject to disposition under the general mining laws, or reclamation of the impacts of such activities.

(6) "Mining claim or site", except where provided otherwise, means a lode mining claim, placer mining claim, mine site or tunnel site.

(7) "Operator" means any person conducting mineral activities subject to the United States or Indian law.

(8) "Person" means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, cooperative or other organization, and any instrumentality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.

(9) "Secretary" means the Secretary of the Interior.

SEC. 3573. RENTAL PAYMENT REQUIREMENTS.

(a) GENERAL.—In order to be subject to the Federal Oil and Gas Royalty Management Act of 1982, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located prior to or after the enactment of this Act, shall pay to the Secretary prior to September 1 of each year, until a patent has been issued therefor, an annual rental payment for each unpatented mining claim or site.

(b) LOCATION PAYMENT.—The owner of each unpatented mining claim or site located after the date of enactment of this Act pursuant to the general mining laws shall pay to the Secretary on or before the first day of any year following the filing of the certification.

(c) EXEMPTION AND WAIVER.—(A) The owner of any mining claim or site who demonstrates to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied during the prior assessment year by the action or inaction of any State, territory, or Indian tribe, or court, or by any Indian tribal authority, shall be exempt from the annual rental payment requirements of paragraph (2) for the assessment year following the filing of the certification.

(B) The rental payment provided for in subsection (a) shall be waived for the owner of a mining claim or site who certifies in writing to the Secretary that, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than ten unpatented mining claims or sites. Such certification that the payment is not required to be paid a rental payment under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or any other Federal law, subject to any suspension or deferral of annual assessment work provided by law, for
the assessment year following the filing of the certification required by this subsection.

(4) AMOUNT OF ANNUAL RENTAL PAYMENT.—For each assessment year the annual rental payment due on a claim or site referred to in paragraph (1) shall be in the amount specified in Table 1.

Table 1

<table>
<thead>
<tr>
<th>Assessment Year</th>
<th>Amount of Payment Per Site or Claim</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996-1998</td>
<td>$100 per year</td>
</tr>
<tr>
<td>1999 and thereafter</td>
<td>$200 per year</td>
</tr>
</tbody>
</table>

(5) EFFECT OF FORFEITURE.—No owner or co-owner of a mining claim or site which has been forfeited because the rental payment has not been paid and no person who is a related person of any such owner or co-owner may relocate a new claim or site on any lands located within the forfeited claim for a period of 12 months after the date of forfeiture.

(b) ANNUAL LABOR.—(1) Beginning in 1999, amounts expended on activities that qualify as annual labor under the general mining laws may be credited on a dollar for dollar basis toward up to 50 percent of the annual rental payment payable under this section for the following assessment year. During the assessment year in 1999, annual labor performed in 1998 may be credited toward the annual rental payment due in 1999.

(2) In order to receive credit under this subsection for annual labor work, the description and value of the work shall be included in the statement required in subsection (e) and the statement must be timely filed.

(3) Annual labor performed on an individual mining claim or site with a group of contiguous claims may be credited towards the aggregate amount of rental payments due on all of the contiguous claims within that group.

(c) WORK QUALIFYING AS ANNUAL LABOR.—(1) Only work which directly benefits or develops a mining claim or site or facilitates the extraction of ore qualifies as annual labor or other activities as determined by the Secretary. Acceptable labor and improvements include, but are not limited to, any of the following:

(A) Drilling or excavating, including ore extraction.

(B) Mining costs directly associated with the production of ore.

(C) Prospecting work which benefits the claim or a contiguous claim.

(D) Development work toward an actual mine, such as shafts, tunnels, crosscuts and drifts, settling pads and dams.


(F) Reclamation conducted pursuant to State or Federal surface management laws or regulations.

(2) The following activities do not qualify as annual labor:

(A) Work involved in maintaining the location such as brushing and marking boundaries or replacing survey or other similar notices.

(B) Transportation of workers to or from the location.

(C) Prospecting or exploration work not conducted within the location or a contiguous location.

(d) AMENDMENTS OF PUBLIC LAW 85-876.—The Act of September 2, 1958 (Public Law 85-876; 30 U.S.C. 281), is amended as follows:

(1) Section 1 is amended by inserting "mineral activities, environmental baseline monitoring, and placement corner posts and location notices" before "of work," and by striking "Such" at the beginning of the last sentence and inserting "Airborne" after "baselines surveys and" and by striking "such" at the beginning of the last sentence.

(2) Section 2(d) is amended by inserting "environmental baseline monitoring or" after "expe-

(d) AMENDMENTS OF FLPMA FILING REQUIRE-

(g) CREDIT AGAINST ROYALTY.—The annual rental payment payable in advance of the assessment year for any unpatented mining claim or site, or the aggregate rental payments from a group of contiguous claims or sites, shall be considered a credit toward the royalty obligation accruing for that year for such claims or sites under section 3575.

(h) FAILURE TO COMPLY.—The failure of the owner to pay annual rental payment for a mining claim or site by the date such payment is due under this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be forfeited and null and void, effective as of the day after the date such payment is due:

Provided, That if such rental payment is paid on or before the 30th day after such payment was due under this subsection, such mining claim or site shall not be forfeited or null or void.

(i) AMENDMENT OF FLPMA FILING REQUIRE-

(j) RELATED PERSONS.—As used in this section, the term "related persons" includes—

(1) the spouse and dependent children of (a) solid waste or hazardous substances released on or from the patented mineral estate may pose a threat to public safety or the environment; and (b) acceptance of title would expose the United States to liability for past mineral activities on the patented estate.

(c) PROTECTION OF.VALID EXISTING RIGHTS.—Notwithstanding any other provision of law, the requirements of this chapter (except with respect to rental payments in accordance with section 5375) shall not apply to the mining claims and sites contained within those mineral patent applications pending or in process until the Department of the Interior shall have determined whether such claims or sites are subject to the general mining laws in effect immediately prior to the date of enactment of this chapter; and
(2) likewise shall not apply to the mining claims or sites for which there is on the date of enactment of this chapter a vested possessory right against the Government under the general laws of the District of Columbia or the District of Columbia and the city thereof, the proper District of Columbia or the District of Columbia and the city thereof, in the manner consistent with the Internal Revenue Code of 1986, as amended from time to time. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

K. All money expended for premiums for industrial insurance, and the owner paid cost of hospital and medical attention and accident benefits and group life insurance for employees engaged in the production or processing of locatable minerals.

L. All money paid as contributions or payments under Federal unemployment compensation law, all money paid as contributions under the Federal Social Security Act, and all money paid to State government in real property taxes and assessments or any lien levied or liens of production, or Federal excise tax payments and payments as fees or charges for use of Federal lands from which the locatable minerals are produced.

M. The actual cost of the developmental work in or about the mine or upon a group of mines when operated as a unit.

N. The term “gross yield” shall having the following meaning:

(A) In the case of sales of gold and silver ore, concentrates, or other products of locatable minerals in the form of ore or concentrates, the term “gross yield” means the actual proceeds of sale of such ore, concentrates, or bullion.

(B) In the case of sales of beneficiated products from locatable minerals other than those subject to subparagraph (A) (including cathode, bullion, concentrates, or fabricated products from the locatable minerals), the term “gross yield” means the gross income from mining derived from the first commercially marketing of beneficiated products in the same manner as under section 613 of the Internal Revenue Code of 1986.

(C) If ore, concentrates, beneficiated or fabricated products, or locatable minerals are used or consumed and are not sold in an arm’s length transaction, the term “gross yield” means the reasonable fair market value of the ore, concentrates, beneficiated or fabricated products at the mine or wellhead determined from the first applicable of the following:

(i) Published or other competitive selling prices of locatable minerals of like kind and grade.

(ii) Published or other competitive selling prices of locatable minerals of like kind and grade.

(iii) Value received in exchange for any thing or service.

(iv) Without the foregoing, the profits or losses incurred in connection with forward sales, futures or commodity options trading, metal loans, or any other price hedging or speculative activity or arrangement shall not be included in gross yield.

(D) LIMITATIONS AND ALLOCATIONS OF NET PROCEEDS, GROSS YIELD, AND ALLOWABLE DEDUCTIONS.Ð

(1) The deductions listed in subsection (c)(1) are intended to allow a reasonable allowance for overhead. Such deductions shall not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in:

(A) the working of the mine;

(B) the operating of the leach pads, ponds, plants, mills, smelters, or reduction works;

(C) the operation of the facilities or equipment for transportation;

(D) superintending the management of any of those operations described in subparagraphs (A) through (C).

(2) Ore or solutions of locatable minerals subject to the royalty requirements of this section may be extracted from mines comprised of mining claims, mineral or locatable mineral, or ore or solutions of locatable minerals subject to the royalty requirements of this section may be commingled with ores or solutions from lands other than mining claims. In any such case, for purposes of determining the amount of royalties payable under this section—

(A) the operator shall measure, weigh, or measure, and assay the same in accordance with accepted industry standards; and

(B) gross yield, allowable costs and net proceeds for royalty purposes shall be allocated in proportion to mineral products recovered from the mining claims in accordance with accepted industry standards.

(E) LIABILITY FOR ROYALTY PAYMENTS.Ð The owner or co-owners of a mining claim subject to a royalty under this section shall be liable for royalties payable to the extent of such royalty claim owned. As used in this subsection, the terms “owner” and “co-owner” mean the person or persons owning the right to mine locatable minerals from the proceeds of such claim.

(F) TIME AND MANNER OF PAYMENT.Ð Royalty payments shall be made on behalf of such owner or co-owners.

(G) RECORDKEEPING AND REPORTING REQUIREMENTS.Ð An owner, operator, or other person directly involved in the conduct of mineral activities, transportation, purchase, or sale of locatable minerals, concentrates, or products derived therefrom, or acting under authority granted by this section, shall keep such records of income, expenses, and royalties as are necessary to determine the income, expenses, and royalty payments. Any record or practice that is necessary or useful in the administration of the royalty requirements of this section, the Internal Revenue Code of 1986, or the Department of the Treasury, or the Internal Revenue Service, shall be considered necessary or useful in the administration of the royalty requirements of this section.
records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with regulations or orders. Upon the request of the Secretary when conducting an audit or investigation pursuant to subsection (i), the appropriate records, reports, or information required shall be made available for inspection and duplication by the Secretary.

(2) Records required by the Secretary under this section shall be maintained for 3 years after the records are generated unless the Secretary notifies the record holder that he or she has initiated an audit or investigation specifically identifying the records. Any such records must be maintained for a longer period. When an audit or investigation is under way, such records shall be maintained until the earlier of the date that the Secretary releases the record holder of the obligation to maintain such records or the date that the limitations period applicable to such audit or investigation expires.

(h) Interest Assessments.—

(1) If royalty payments under this section are not received on the date such payments are due, or if such payments are less than the amount due, the Secretary shall charge interest on such unpaid amount. Interest under this section shall be computed at the rate published by the Department of the Treasury as the “Treasury Current Value of Funds Rate.” In the case of an underpayment or partial payment, interest shall be computed at the rate charged only on the amount of the deficiency and not on the total amount, and only for the number of days such payment is late. No other late payment charge or penalty shall be charged with respect to royalties under this section.

(2) In any case in which royalty payments are made in excess of the amount due, or amounts are held by the Secretary pending the outcome of any appeal in which the Secretary does not prevail, the Secretary shall promptly refund such overpayments or pay such amounts to the person or persons entitled thereto, together with interest thereon for the number of days such overpayment or amount were held by the Secretary, with the addition of interest charged against the United States computed at the rate published by the Department of the Treasury as the “Treasury Current Value of Funds Rate.”

(i) Audits, Payment Demands and Limitations.—

(1) The Secretary may conduct, after notice, any audit reasonably necessary and appropriate to verify the payments required under this section.

(2) The Secretary shall send or issue any billing or demand letter for royalty due on locatable minerals produced and sold from any mining claim subject to royalty required by this section not later than 3 years after the date such royalty was due and must specifically identify the production involved, the royalty allegedly due and the basis for the claim. No action, including any demand for royalties on locatable minerals produced and sold, or relating to such production, may be brought by the United States, including but not limited to any claim for additional royalties or claim of the right to offset the amount of such additional royalties against amounts owed to any person by the United States, unless judicial suit or administrative proceedings are commenced to recover specific amounts claimed to be due prior to the expiration of 3 years from the date such royalty is alleged to have been due.

(j) Recordholding Obligations.—

(1) Such claim that is determined not to qualify for the issuance of a patent under section 5374(c), royalties shall be payable under this section on production after the date of enactment of this Act, but shall not be credited to the Federal Fund established by the Department of the Treasury as the “Treasury Current Value of Funds Rate” on production after such date of enactment and before the final determination of the right to patent. Such claim that is determined not to qualify for the issuance of a patent under section 5374(c) shall be suspended pending final determination of the right to patent. For any such claim that is determined not to qualify for the issuance of a patent under section 5374(c), royalties shall be payable under this section on production after the date of enactment of this Act, but shall not be credited to the Federal Fund established by the Department of the Treasury as the “Treasury Current Value of Funds Rate” on production after such date of enactment and before the final determination of the right to patent.

(2) Any person who withholds payment or royalties under this section after a final, nonappealable determination of liability under section 5376(a) for which a penalty of $ 5,000 per day that payment is withheld after becoming due.

(k) Disbursement of Revenues.—The receipts from royalties collected under this section shall be disbursed as follows:

(1) Fifty percent of such receipts shall be paid into the Treasury of the United States and deposited as miscellaneous receipts.

(2) Forty percent of such receipts shall be paid into a State Fund or Federal Fund in accordance with section 5376, until termination as provided in section 5379.

(3) Ten percent of such receipts shall be paid by the Secretary of the Treasury to the State in which the mining claim from which production was received and for which a penalty is alleged to have been due.

SEC. 5376. ABANDONED LOCATABLE MINERALS MINE RECLAMATION FUND.

(a) State Fund.—Any State within which royalties are collected pursuant to section 5375 from a mining claim and which wishes to become eligible to receive such proceeds allocated by section 5375(l)(2) shall establish and maintain an abandoned locatable mineral mine reclamation fund (hereinafter referred to in this chapter as “State Fund”) to accomplish the purposes of this chapter. The State within which an abandoned locatable mineral reclamation programs shall qualify to receive proceeds allocated by section 5375(l)(2).

(b) Federal Fund.—There is established on the books of the Treasury of the United States an interest-bearing fund to be known as the Abandoned Locatable Minerals Mine Reclamation Fund (hereinafter referred to in this chapter as ‘‘Federal Fund’’) which shall consist of royalty proceeds allocated by paragraph 5375(l)(2) from mining claims in a State where a State Fund has not been established or maintained under subsection (a).

SEC. 5377. ALLOCATION AND PAYMENTS.

(a) State Fund.—Royalties collected pursuant to section 5375 and allocated by section 5375(l)(2) with respect to all State Funds, the State Fund shall be distributed to the States as provided in Section 5375(l)(3).

(b) Specific Sites and Areas Not Eligible.—The following areas shall not be eligible for proceeds from a State Fund:

(1) any area subject to a plan of operations submitted or approved prior to, or on the date, of the date of enactment of this Act which includes reclamation or abandonment of the area adversely affected by past locatable mineral activities;

(2) any area affected by coal mining eligible for reclamation expenditures pursuant to section 404 of the Surface Mining Control and Reclamation Act (30 U.S.C. 1324).

(c) Termination of Fund.—Upon the termination of the Department of the Interior as having been received, except for any portion of such royalties which is under challenge, which shall be paid to the United States in accordance with section 5375(l)(2) from mining claims in a State where a State Fund has not been established or maintained under subsection (a).

SEC. 5379. SUNSET PROVISIONS.

(a) Termination of Authority.—The Secretary of the Treasury’s authority to allocate funds to a State Fund under section 5377 shall expire on the date that the State submits a report to the Congress which states that there are no areas in the State eligible under subsection 5378(a) which remain to be reclaimed.

(b) Federal Fund.—Royalties collected pursuant to section 5375 and allocated by paragraph 5375(l)(2), from mining claims located in a State which has not established or maintained a State Fund, and such royalties from mining claims located in a State for which the Secretary’s authority has expired under subsection 5377 shall be credited to the Federal Fund and allocated to such State. Such allocations from the Federal Fund shall be made in accordance with subsection (c).

(c) Transition.—Prior to the time a State establishes a State Fund pursuant to subsection 5376(a), any royalties collected from a mining claim within such State shall be deposited into the Federal Fund and allocated to such State. Once a State establishes a State Fund pursuant to subsection 5376(a), the State allocation in the Federal Fund with accrued interest shall be paid by the Secretary of the Treasury to the State which in turn shall allocate such payment to the State Fund in accordance with subsection (a).

(2) For the purpose of determining the amount of payments pursuant to section 5376(a), the Secretary shall, in determining the amount of payments provided for in section 5376(a), take into account any royalty payments, interest payments, or other payments received by the Secretary which shall be placed in a suspense account prior to processing.

SEC. 5380. EFFECT ON THE GENERAL MINING LAWS.

The provisions of this chapter shall supersede the general mining laws only to the extent such laws conflict with the requirements of this chapter. No such provision of any such general mining laws, including all judicial and administrative decisions interpreting them, shall remain in full force and effect.

SE. 13415. If any provision of this chapter or the applicability thereof to any person or circumstances
is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 5401. DEFINITIONS.
(a) Principal amount. Ð Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—
(1) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and
(2) an amount equal to $1,000,000 multiplied by a fraction that is the quotient of which is the sum of the principal amounts for the old capital investment and the denominator of which is the sum of the principal amounts of the old payment amounts for all old capital investments.

(b) Determination. Ð With the approval of the Secretary of the Treasury, based solely on

SEC. 5402. NEW PRINCIPAL AMOUNTS.
(a) Principal amount. Ð Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—
(1) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and
(2) an amount equal to $1,000,000 multiplied by a fraction that is the quotient of which is the sum of the principal amounts for the old capital investment and the denominator of which is the sum of the principal amounts of the old payment amounts for all old capital investments.

(b) Determination. Ð With the approval of the Secretary of the Treasury, based solely on
SEC. 5406. INTEREST RATES FOR NEW CAPITAL INVESTMENT
The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service, until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

SEC. 5407. INTEREST RATES FOR NEW CAPITAL INVESTMENTS.
The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service, until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

SEC. 5408. CONTRACT AMOUNTS.
(B) any payment of principal of an old capital investment shall be no greater than the new principal amount of an old capital investment.
(C) any payment of principal of an old capital investment shall be no greater than the new principal amount of an old capital investment.

SEC. 5409. CONTRACT PROVISIONS.
(b) Payment of Capital Investment. The Administrator shall establish the rate at which the Administrator shall charge interest for amounts under this section and the assignment of the rate of interest to be charged on principal amounts under this section.
(c) Old Payment Amount. For the purposes of this section, "old payment amounts" means, for an old capital investment, the annual interest charged on principal amounts under this section.
(d) New Capital Investment. For purposes of this section, "new capital investment" means the capital investment for or return on an old capital investment, or
(e) Repayment Date. The Administrator shall establish the rate at which the Administrator shall charge interest for amounts under this section and the assignment of the rate of interest to be charged on principal amounts under this section.

SEC. 5410. SAVINGS PROVISIONS.
(a) Repayment. This subchapter does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, and to make any payment of interest on the principal, as defined in section 13(b) of the Federal Columbia River Power Act (6 U.S.C. 838k(b)).
(b) Payment of Capital Investment. Except as provided in section 5405, this subchapter does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

Subchapter B—Alaska Power Marketing Administration 

SEC. 5411. SHORT TITLE. This subchapter may be cited as the "Alaska Power Administration Asset Sale and Termination Act''.

SEC. 5412. DEFINITIONS. For purposes of this subchapter:
(1) The term "Eklutna" means Eklutna Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Snettisham Purchase Agreement.
(2) The term "Eklutna Purchase Agreement'' means the August 2, 1989, Eklutna Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Eklutna Purchasers, together with any amendments thereto adopted before the date of enactment of this Act.
(3) The term "Eklutna Purchasers'' means the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc. and the Matanuska Electric Association, Inc.
(4) The term "Snettisham'' means the Snettisham Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Eklutna Purchase Agreement.
(6) The term "Snettisham Purchaser'' means the Alaska Industrial Development and Export Authority or a successor State agency or authorized representative.

SEC. 5413. SALE OF EKULTNA AND SNETTISHAM HYDROELECTRIC PROJECTS.
(a) Sale of Eklutna. The Secretary of Energy is authorized and directed to sell Eklutna to the Eklutna Purchasers in accordance with the terms of this subchapter and the Eklutna Purchase Agreement.
(b) Sale of Snettisham. The Secretary of Energy is authorized and directed to sell Snettisham to the Snettisham Purchaser in accordance with the terms of this subchapter and the Snettisham Purchase Agreement.

SEC. 5414. COOPERATION OF OTHER AGENCIES. The heads of other Federal departments, agencies, and instrumentalities of the United States shall assist the Secretary of Energy in implementing the sales and conveyances authorized and directed by this subchapter.

SEC. 5415. PROCEEDS. Proceeds from the sale required by this subchapter shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

(e) Preparing Eklutna and Snettisham for Sale. The Secretary of Energy is authorized and directed to use such funds from the sale of electric power by the

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Consistency with this subchapter, the Administrator shall determine the new principal amounts under this section and the assignment of interest rates to the new principal amounts under this section.
Old Payment Amount. For the purposes of this section, "old payment amounts" means, for an old capital investment, the annual interest and principal amounts under this section.
New Capital Investment. For purposes of this section, "new capital investment" means the capital investment for or return on an old capital investment, or
Interest Rate. The Treasury rate for the new capital investment bears interest at a rate equal to the one-year rate for the new capital investment, or
Capital Investment. As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under section 5402 bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.
Repayment Date. As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under section 5402 is no earlier than the repayment date for the old capital investment assumed in section 5402(c)(1).
Interest Rate Limitations. During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under section 5402, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.
Interest Rates. New capital investments during construction.
New Capital Investment. The principal amount of a new capital investment includes interest on the cost of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year in which the construction took place.
New Capital Investment. The principal amount of a new capital investment includes interest on the cost of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year in which the construction took place.
One-Year Rate. For the purposes of this section, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.
Alaska Power Administration as may be necessary to prepare, survey, and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide for the best use, enjoyment, and occupancy by the purchaser.

(f) CONTRIBUTED FUNDS.—Notwithstanding any other provision of law, the Alaska Power Administration is authorized to receive, administer, and expend such contributed funds as may be provided by the Eklutna Purchasers or customers or the Snettisham Purchaser or customers, the Federal Power Act, the Uniform Trade and Service Act, and the Federal power laws, for the purposes of upgrading, improving, maintaining, or administering Eklutna or Snettisham. Upon the termination of the Alaska Power Administration under section 544(f), the Secretary of the Interior shall determine, and expend any remaining balances of such contributed funds for the purposes intended by the contributors.

SEC. 5434. EXEMPTION AND OTHER PROVISIONS.

(a) FEDERAL POWER ACT.—

(1) After the sales authorized by this subchapter occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of part I of the Federal Power Act (16 U.S.C. 791a et seq.), except as provided in subsection (b).

(2) The exemption provided by paragraph (1) shall not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and the Secretary of Energy regarding the protection, mitigation of, damages from, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this subchapter or the Federal Power Act (16 U.S.C. 791 et seq.) preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

(b) SUBSEQUENT TRANSFERS.—Except for subsequent assignment of interest in Eklutna by the Eklutna Purchasers to the Alaska Electric Generation and Transmission Cooperative Inc. pursuant to section 19 of the Eklutna Purchase Agreement, upon any subsequent sale or transfer of any portion of Eklutna or Snettisham from the Eklutna Purchasers or the Snettisham Purchaser to any other person, the exemption set forth in paragraph (1) of subsection (a) of this section shall fail to cease to apply to such portion.

(c) REVIEW.—

(1) The United States District Court for the District of Alaska shall have jurisdiction to review any action taken by the Secretary of Energy in the administration of the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or a challenge of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than 90 days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than 90 days after the challenged act implementing the Program, or be barred.

(d) EKLUTNA LANDS.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) the Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers;

(2) the costs to the Eklutna Purchasers;

(3) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(4) the operation, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the Secretary of the Interior that are subject to the rights-of-way provided to the Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selection of, these lands are invalid or relinquished.

(5) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may not convey, sell, alienate, lease for a term of more than 90 days, or convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly known as the Alaska Statehood Act, Public Law 85-508, 72 Stat. 339), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(e) SNETTISHAM LANDS.—With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly known as the Alaska Statehood Act, Public Law 85-508, 72 Stat. 339), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(f) TENTH SECTION OF ALASKA POWER ADMINISTRATION.—Not later than one year after both of the sales authorized in section 5413 have occurred, as measured by the Transaction Dates of the Eklutna and Snettisham Agreements, the Secretary of Energy shall:

(1) complete the business of, and close out, the Alaska Power Administration;

(2) submit to Congress a report documenting the sales; and

(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(g) REMEDIES.—

(1) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date that Eklutna is conveyed to the Eklutna Purchasers.

(2) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date that Snettisham is conveyed to the Snettisham Purchaser.

(3) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

(h) DOE ORGANIZATION ACT.—As of the later of the dates specified in paragraphs (1) and (2) of subsection (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

(1) in paragraph (A), by striking subparagraph (C); and

(2) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively; and

(2) in paragraph (2) by striking out "and the Alaska Power Administration" and by inserting "and" in place thereof.

(i) DISPOSAL.—The sales of Eklutna and Snettisham pursuant to this subchapter are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly known as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).

SEC. 5452. OTHER FEDERAL HYDROELECTRIC PROJECTS.

The provisions of this subchapter regarding the sale of the Alaska Power Administration's hydroelectric projects under section 5413 and the exemption of these projects from part I of the Federal Power Act (16 U.S.C. 791 et seq.) do not apply to other Federal hydroelectric projects.

CHAPTER 8—OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF

SEC. 5423. SHORT TITLE.

This subchapter is referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act".
The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lease shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be final and nonappealable.

(20) (c) In determining if such average of the closing prices for the previous year exceeds $3.50, 17.5 million barrels of oil equivalent for leases in water depths greater than 800 meters; and

(20) (d) Except in the case of oil exported to a country with which the United States entered pacific territories. If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary and appropriate to ensure that such exports are consistent with the national interest.

SEC. 5424. LEASE SALES.

For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within seven years of the date of enactment of this chapter, shall use the bidding system authorized in section 13(b)(2) of the Oil and Gas Act, as amended by this chapter, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 5425. REGULATIONS.

The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this Act within 180 days after the enactment of this Act.

SEC. 5426. SAVINGS CLAUSE.

Nothing in this chapter shall be construed to affect any existing law (including any regulation) applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida, unless the President finds that exportation of oil under authority of this subsection.

CHAPTER 9—EXPORTS OF ALASKA NORTH SLOPE OIL

SEC. 5431. EXPORTS OF ALASKAN NORTH SLOPE OIL.

Section 2 of the Mineral Leasing Act (30 U.S.C. 185) is amended by amending subsection (s) to read as follows:

"EXPORTS OF ALASKAN NORTH SLOPE OIL.";

(1) subject to paragraphs (2) through (6) of this subsection and any other provision of this Act or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over-right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of such oil would cause sustained material adverse employment effects in the United States, including noncontiguous States and territories. If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary and appropriate to ensure that such exports are consistent with the national interest.

(2) Except in the case of oil exported to a country with which the United States entered pacific territories. If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary and appropriate to ensure that such exports are consistent with the national interest.

(3) Except in the case of oil exported to a country with which the United States entered pacific territories. If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary and appropriate to ensure that such exports are consistent with the national interest.

(4) Nothing in this subsection shall restrict the authority of the President under the Constitution, the National Emergencies Act (50 U.S.C. 1621 et seq.), or part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271-76) to prohibit exports.

(5) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

(6) Nothing in this chapter shall be construed to affect any existing law (including any regulation) applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida, unless the President finds that exportation of oil under authority of this subsection.

CHAPTER 10—SKI AREA PERMIT RENTAL CHARGES ON NATIONAL FOREST SYSTEM LANDS

SEC. 5441. SKI AREA RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs of the 2nd section of the 1st Act of June 26, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. It represents that permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be set forth in subsection (b). Permit rental charges for ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1979, shall be calculated in accordance with the following provisions:

(b) Nothing in this chapter shall be construed to affect any existing law (including any regulation) applicable to the export of oil transported by pipeline over-right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of such oil would cause sustained material adverse employment effects in the United States, including noncontiguous States and territories. If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary and appropriate to ensure that such exports are consistent with the national interest.

(1) Except in the case of oil exported to a country with which the United States entered pacific territories. If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary and appropriate to ensure that such exports are consistent with the national interest.

(2) Except in the case of oil exported to a country with which the United States entered pacific territories. If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary and appropriate to ensure that such exports are consistent with the national interest.
the 1994-1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.
(e) Under no circumstances shall revenue, or restrictions from that permit (motor vehicle license, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.
(f) To reduce administrative costs on ski area permits and the Forest Service the terms "rental" and "sales", as used in this section, shall not include sales of operating equipment, refunds, rent paid to the permittee by sublesses, sponsor contributions to special events or any amounts attributable to gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive rent.
(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental (paragraph 2) by striking subsection (a), the permittee shall pay a minimum annual rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined to be appropriate by the Secretary.
(h) Where the new rental charge provided for in subsection (b) exceeds the percent of the adjusted gross revenue subject to the permit rental charge calculation.
CHAPTER 11—PARK ENTRANCE FEES
SEC. 5451. FEES.
(a) ADMISSION FEES. Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(a)) is amended—
(1) in the first sentence of the subsection by striking "no more than 21';'
(2) in paragraph (1)(A)(i) by striking "$25" and inserting "$50";
(3) in the second sentence of paragraph (1)(B) by striking "$15" and inserting "$25";
(4) in paragraph (1) by striking the fourth, fifth, and sixth sentences and inserting "The fee for a single visit per designated area shall be collected on a per person basis, not to exceed $15, for persons entering by motor vehicle, commercial vehicle, or on foot;
(5) in paragraph (3)—
(A) in the first sentence by inserting "Great Smoky" after "Great''; and
(B) by striking the last sentence;
(6) in paragraph (4)—
(A) by striking the second sentence and inserting "Such fee shall be nontransferable, shall be issued for a one-time charge, and shall be set at the same rate as the fee for a Golden Eagle Passport, and shall entitle the permittee to free admission into any area designated pursuant to this subsection;'' and
(B) by striking the third sentence and inserting "No fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local government business.''
(7) by striking paragraph (5) and inserting the following:
(15) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person legally residing in, the United States, if such citizen or person applies for such permit and is permanently disabled. Such procedures shall ensure that a lifetime admission permit shall be issued only to a citizen or person clearly determined to be permanently disabled. A lifetime admission permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this subsection, notwithstanding the maximum number travel.
(b) by striking paragraph (9) and by redesignating paragraph (10) as paragraph (9); and
(c) by adding at the end of paragraph (11) and redesignating paragraph (12) as paragraph (11).
(d) RECREATION FEES. Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(n)) is amended—
(1) by striking subsection (b) and inserting the following:
(2) by striking "National Outdoor Recreation'' and inserting "National Park Service'';
(3) by striking the period at the end of paragraph (11) and redesignating paragraph (12) as paragraph (11).
(e) USE OF FEES. Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(k)) is amended by striking "nor shall fees charged by other Federal agencies, including the Bureau of Land Management and the Forest Service, the National Park Service, and the Fish and Wildlife Service, for the conduct of official Federal, State, or local government business'',''
(f) by striking paragraph (5) and inserting the following:
(1) as paragraph (10); and
(2) by striking the period at the end of paragraph (11) and redesignating paragraph (12) as paragraph (11).
(g) by striking "fee collection costs for that fiscal year'' and inserting "fees charged by other Federal agencies, including the Bureau of Land Management and the Forest Service, the National Park Service, and the Fish and Wildlife Service, for the conduct of official Federal, State, or local government business'',''
(h) by striking paragraph (5) and inserting the following:
(1) as paragraph (10); and
(2) by striking the period at the end of paragraph (11) and redesignating paragraph (12) as paragraph (11).
(i) C RITERIA, P OSTING AND UNIFORMITY OF FEES. Section 4(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(d)) is amended—
(1) by striking "such fees charged by other Federal agencies, including the Bureau of Land Management and the Forest Service, the National Park Service, and the Fish and Wildlife Service, for the conduct of official Federal, State, or local government business, shall mean actual income from sales and shall only to persons who have been medically determined to be permanently disabled. Such procedures shall ensure that a lifetime admission permit shall be issued only to a citizen or person clearly determined to be permanently disabled. A lifetime admission permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this subsection, notwithstanding the maximum number travel.
(2) by striking paragraph (9) and by redesignating paragraph (10) as paragraph (9); and
(3) by striking paragraph (12) and inserting the following:
(4) As paragraph (11).
tour operators 12 months ahead in advance of imple-
mentation.”

SEC. 5452. COVERING OF INCREASED FEE RE-
 VENTURE INTO SPECIAL ACCOUNTS.

Of the funds deposited in special accounts in the Treasury for the National Park Service, Bureau of Land Management, and Forest Service as set forth in section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460a-j), beginning in fiscal year 1997, 80 percent of such funds shall be made available to that agency or his or her designated representative. The amount made available to any such agency shall be equal to 80 percent of the amount which reasonably approximates the Consumer Price Index specified above. The agency or his or her designated representative may enter into concession authorizations as for the award of a concession service agreement until such bidder becomes the concessioner.

(ii) CONCESSION SERVICE AGREEMENT.—A con-
cession service agreement shall be entered into for all concessions where the Secretary concerned determines that the provision of concessions services for Federal lands or waters would enhance public enjoyment of Federal lands or waters. The Secretary of the Interior shall enter into, and reissue, a concession service agreement whenever the Secretary concerned determines that due to special circumstances it is in the public interest of the United States to award a concession service agreement on a competitive basis.

(iii) CONCESSION LICENSE.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession license with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(iv) LAN D S U N D E R M U L TIPLE JURISDICTIONS.—In or-
defer administrative costs the Secretary concerned shall enter into, and reissue, a conces-
sion service agreement when the concessionaire provides services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession service agreement with the concessionaire.

(v) CONCESSION AUTHORIZATION.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession service agreement with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(vi) CONCESSION LICENSE.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession license with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(vii) CONCESSION AUTHORIZATION.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession service agreement with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(viii) CONCESSION LICENSE.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession license with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(ix) CONCESSION AUTHORIZATION.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession service agreement with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(x) CONCESSION LICENSE.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession license with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(xii) CONCESSION AUTHORIZATION.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession service agreement with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(xiii) CONCESSION LICENSE.—Whenever the Sec-
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sionaires providing such services, the Secretary concerned shall enter into a concession license with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(xiv) CONCESSION AUTHORIZATION.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession service agreement with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(xv) CONCESSION LICENSE.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession license with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(xvi) CONCESSION AUTHORIZATION.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession service agreement with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(xvii) CONCESSION LICENSE.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
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sionaires providing such services, the Secretary concerned shall enter into a concession license with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(xviii) CONCESSION AUTHORIZATION.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession service agreement with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(xix) CONCESSION LICENSE.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession license with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

(xx) CONCESSION AUTHORIZATION.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
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ticular geographic area.

(xi) CONCESSION LICENSE.—Whenever the Sec-
cretary concerned makes a determination that public enjoyment of Federal lands or waters would be enhanced by the provision of concession services for one-time, intermittent, or infre-
quently scheduled activities and that there exists no need to limit the number of conces-
sionaires providing such services, the Secretary concerned shall enter into a concession license with a qualified concessionaire. The Secretary concerned may not limit the number of concession licenses issued for the same type of activity in a par-
ticular geographic area.

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quently scheduled activities and that there exists no need to limit the number of conces-
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ticular geographic area.
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(1) a description of the services and facilities to be provided by the concessioner.
(2) the level of capital investment required by the concessioner (if any).
(3) the conditions of the concession service agreement.
(4) minimum facilities and services to be provided by the Secretary concerning the concession's commercial use and related costs associated with non-resident labor, each contract awarded by the Department of the Interior for concessioner or commercial use contractor to employ individuals who are residents of such State.
(5) other information related to the concession operation available to the Secretary concerning as is not privileged or otherwise exempted from disclosure under Federal law, as the Secretary determines is necessary to allow for the submission of competitive proposals; and
(6) local hiring preferences provisions, if applicable, and notwithstanding any other provision of law, to increase revenue to the United States by avoiding additional transportation and related costs associated with non-resident labor, each contract awarded by the Department of the Interior for concessioner or commercial use contractor to employ individuals who are residents of such State.

(g) INAPPLICABILITY OF NEPA TO TEMPORARY EXTENSIONS AND SIMILAR REISSUANCE OF CONCESSION AGREEMENTS.—The temporary extension of a concession service agreement shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the Secretary concerned shall not be accorded an investment interest in the concessioner's facilities wholly owned by the Federal Government.

(h) PROVISION FOR ADDITIONAL RELATED SERVICES.—The Secretary concerned may modify the concession service agreement to allow concessionaires to provide services closely related to such agreement only if the Secretary concerned determines that such changes would enhance the safety or enjoyment of visitors and would not unduly restrict the award of future concession service agreements.

(i) SEC. 5466. DURATION OF CONCESSION AUTHORIZATION.

(a) CONCESSION SERVICE AGREEMENT.—The standard term of a concession service agreement shall be 10 years. The Secretary concerned may issue a concession service agreement for less than 10 years if the Secretary determines that the average annual gross receipts over the life of the concession service agreement would be less than $100,000. The Secretary concerned may not issue a concession service agreement for less than 5 years. The Secretary concerned shall issue a concession service agreement for longer than 10 years if the Secretary determines that such longer term is necessary due to the extent of investment and associated financing requirements and to meet the operational standards for the property of the Federal Government.

(b) CONCESSION LICENSE.—The term for a concession license may not exceed 2 years.

(c) TEMPORARY EXTENSIONS.—The Secretary concerned may agree to temporary extensions of concession service agreements for up to 2 years.
on a noncompetitive basis to avoid interruption of service to the public.

SEC. 5467. RATES AND CHARGES TO THE PUBLIC.

In general, rates and charges to the public shall be set by the concessioner. For concession service agreements, rates and charges to the public shall be subject to the approval of the Secretary concerned in those instances where the objective of the concession is to provide services at reasonable rates that will produce an operating surplus. The Secretary may require any such increase in rates and charges to be approved by the Secretary concerned in those instances in which the concessioner is required to make capital improvements and other activities, only for capital improvements and other activities, only for capital improvements to Government-owned facilities occupied by the concessioner to be used solely as set forth in the concession service agreement.

SEC. 5468. TRANSFERABILITY OF CONCESSION AUTHORIZATIONS.

(a) CONCESSION SERVICE AGREEMENTS.--

(1) APPLICABILITY.--A concession service agreement is transferable or assignable only with the agreement of the Secretary concerned, which agreement may not be unreasonably withheld or delayed. The Secretary may not approve any such transfer or assignment if the Secretary determines that the prospective assignee is or is likely to be unable to be in compliance with all of the requirements, terms, and conditions of the agreement or that the terms of the transfer or assignment would prejudice providing appropriate facilities or services to the public at reasonable rates.

(2) CONSIDERATION PERIOD.--If the Secretary concerned fails to approve or disapprove a transfer or assignment under paragraph (1) within 90 days of receipt of all necessary information, or the Secretary concerned fails to complete within 90 days after the date on which the Secretary concerned receives all necessary information required by the Secretary concerned to establish a minimum fee for Government-owned facilities occupied by the concessioner shall deposit into this account all fees, deposits, or funds for maintenance of or improvements to Government-owned facilities occupied by the concessioner, or in the event of an unforeseen disaster.

(c) ADJUSTMENT OF FEES.--The amount of any fee for the term of the concession service agreement shall be set at the beginning of the concession authorization and may only be modified if stated in the contract on the basis of inflation, or the requirement for the Secretary concerned shall develop a schedule of anticipated receipts to be deposited to the Treasury and submit such schedule to the appropriate Congressional committees not later than 18 months after the date of enactment of this Act. Nothing in this chapter shall be construed to modify any provision of law relating to sharing of Federal receipts with any other level of Government.

(2) DEPOSIT INTO CONCESSION IMPROVEMENT ACCOUNT.--The amount received by the concessioner for any vessel operator for the 5-year period beginning on the first full fiscal year following the date of enactment of this subchapter shall be deposited into a special account and that such funds shall be available without further appropriation and may only be used to conduct research to quantify any effect of such vessel activity on wildlife and other natural resource values of Glacier Bay National Park. For the National Park Service such deposits into the Treasury shall total not less than the amounts specified in the table in subsection (a) for the National Park Service and other agencies covered under this subchapter, the Secretary concerned shall develop a schedule of anticipated receipts to be deposited to the Treasury and submit such schedule to the appropriate Congressional committees not later than 18 months after the date of enactment of this Act. Nothing in this chapter shall be construed to modify any provision of law relating to sharing of Federal receipts with any other level of Government.

SEC. 5469. FEES CHARGED BY THE UNITED STATES FOR CONCESSION AUTHORIZATIONS.

(a) CONCESSION SERVICE AGREEMENTS.--

(1) MINIMUM ACCEPTABLE FEE.--The Secretary concerned shall establish a minimum fee for the privilege of providing concession services pursuant to this subchapter. The fee for any concession service agreement may include any of the following:

(1) In General.--The Secretary concerned shall charge a fee for the privilege of providing concession services pursuant to this subchapter. The fee for any concession service agreement may include any of the following:

(a) Fees charged by the United States for concession authorizations.

(b) Concession License.--A concession license may not be transferred.

SEC. 5467. RATES AND CHARGES TO THE PUBLIC.

In general, rates and charges to the public shall be set by the concessioner. For concession service agreements, rates and charges to the public shall be subject to the approval of the Secretary concerned in those instances where the objective of the concession is to provide services at reasonable rates that will produce an operating surplus. The Secretary may require any such increase in rates and charges to be approved by the Secretary concerned in those instances in which the concessioner is required to make capital improvements and other activities, only for capital improvements and other activities, only for capital improvements to Government-owned facilities occupied by the concessioner to be used solely as set forth in the concession service agreement.

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(1) APPLICABILITY.--A concession service agreement is transferable or assignable only with the agreement of the Secretary concerned, which agreement may not be unreasonably withheld or delayed. The Secretary may not approve any such transfer or assignment if the Secretary determines that the prospective assignee is or is likely to be unable to be in compliance with all of the requirements, terms, and conditions of the agreement or that the terms of the transfer or assignment would prejudice providing appropriate facilities or services to the public at reasonable rates.

(2) CONSIDERATION PERIOD.--If the Secretary concerned fails to approve or disapprove a transfer or assignment under paragraph (1) within 90 days of receipt of all necessary information, or the requirement for the Secretary concerned shall develop a schedule of anticipated receipts to be deposited to the Treasury and submit such schedule to the appropriate Congressional committees not later than 18 months after the date of enactment of this Act. Nothing in this chapter shall be construed to modify any provision of law relating to sharing of Federal receipts with any other level of Government.

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(1) In General.--The Secretary concerned shall charge a fee for the privilege of providing concession services pursuant to this subchapter. The fee for any concession service agreement may include any of the following:

(a) Fees charged by the United States for concession authorizations.

(b) Concession License.--A concession license may not be transferred.
date of enactment of this chapter for existing capital improvements or possessory interest as identified in concession contracts entered into before the date of enactment of this Act. Subsequent to enactment of this chapter, the increase in value for any possessory interest established under any concession contract in effect on the date of enactment of this chapter shall be as provided for in this chapter unless otherwise specifically provided in the contract.

(4) AN ILLEGAL.—Nothing in this chapter shall be construed to amend, supersede or otherwise affect any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.

(5) PROCEDURES FOR CONSIDERING EXISTING CONCESSIONARIES IN REISSUANCE OF CONTRACTS.—In the case of a concession contract which has expired prior to the date of the enactment of this Act, or within 5 years after the date of the enactment of this Act, an incumbent concessioner shall be entitled to a one-time bonus of five percent of the maximum points available in the reissuance of a previous concession authorization. For any concession contract entered into prior to the date of enactment of this Act, which is projected to terminate 5 years or later after the date of enactment of this Act, any concessioner shall be entitled to a performance incentive in accordance with this chapter. The concessioner shall be entitled to an evaluation of “good” for each year in which the Secretary concerned does not complete an evaluation as provided for in this chapter.

TITLE VI—FEDERAL RETIREMENT AND RELATED PROVISIONS

Subtitle A—Civil Service and Postal Service Provisions

SEC. 6001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.


SEC. 6002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c)."

(2) AGENCY CONTRIBUTIONS.—

(A) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.—Section 8334(a)(1) of title 5, United States Code (as amended by this section) is further amended—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996, through December 31, 2002—

"(I) for each employing agency (other than the United States Postal Service or the Washington Metropolitan Airport Authority) shall be 8.51 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9.01 percent of the basic pay of a law enforcement officer, a member of the Capitol Police, and a firefighter, and 8.51 percent of the basic pay of a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and

"(II) for the United States Postal Service and the Washington Metropolitan Airport Authority shall be 7 percent of the basic pay of an employee and 7.5 percent of the basic pay of a law enforcement officer or firefighter.

(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(ii) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking out "7 ..... After December 31, 1969." and inserting in lieu thereof the following:


7 ..... After December 31, 2002."

(B) in the matter relating to a Member or employee for Congressional employee service by striking out "7 ..... After December 31, 1969." and inserting in lieu thereof the following:


7 ..... After December 31, 2002."

(C) in the matter relating to a Member for Member service by striking out "8 ..... After December 31, 1969." and inserting in lieu thereof the following:


7 ..... After December 31, 2002."

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out "7.4 ..... After December 31, 1974." and inserting in lieu thereof the following:

"7.5 ..... January 1, 1975, to December 31, 1995.

7.75 ..... January 1, 1996, to December 31, 1996.


7.5 ..... After December 31, 2002."

(E) in the matter relating to a bankruptcy judge by striking out "8 ..... After December 31, 1983." and inserting in lieu thereof the following:


7.5 ..... January 1, 2000, to December 31, 2002.

7 ..... After December 31, 2002."

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking out "8 ..... On and after the date of the enactment of the Department of Defense Authorization Act, 1984," and inserting in lieu thereof the following:

"8 ..... The date of the enactment of the Department of Defense Authorization Act, 1984," and inserting in lieu thereof the following:

"8 ..... January 1, 1987."
and (I) by inserting after the matter relating to a Claims Court judge by striking out

and inserting in lieu thereof the following:

"(B) by striking out subsections (b) and (c); (B) by striking out subsections (b) and (c); (B) by striking out subsections (b) and (c)."

(2) No reduction in agency contributions.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(C) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.

SEC. 6003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

(A) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—

(I) CSR.S.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting "or Member" after "employee"; and

(B) by striking out subsections (b) and (c).

(FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking out subsections (b) and (c); (B) in subsections (a) and (g) by inserting "or Member" after "employee" each place it appears; and

(C) in subsection (g)(2) by striking out "congressional employee".

(B) ACCRUAL RATE FOR MEMBER AND CONGRESSIONAL EMPLOYEE SERVICE PERFORMED BUT NOT VESTED BEFORE EFFECTIVE DATE.—

(1) APPLICATION.—This subsection shall apply to an individual who—

(A) is a Member of Congress or Congressional employee on December 31, 1995; (B) has performed less than 5 years of service as a Member of Congress or Congressional employee on December 31, 1995; and

(C) after December 31, 1995, completes 5 years of service as a Member of Congress or Congressional employee that includes a period of service performed as a Member of Congress or Congressional employee before January 1, 1996.

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (B)"; and

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

"(1) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B)."

(B) VOLUNTEER SERVICE.—Section 8334(i) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following:

"This paragraph shall be subject to paragraph (4)."; and

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

"(4) Other Service.—

(A) Military Service.—Section 8334(i) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (8),"; and

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

"(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B)."

(B) Volunteer Service.—Section 8334(i) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following:

"This paragraph shall be subject to paragraph (4)."; and
such title (as in effect before the date of enactment of this Act) shall be deemed fulfilled.

(c) CAPITOL POLICE.—Section 8339(g) of title 5, United States Code, is amended by striking out "within 1 year after the close of the biennium," and inserting in lieu thereof "within 1 year after the close of the biennium," except that, in the case of a member who retires under section 8335(d) or 8336(m), and who meets the requirements of subsection (b)(2), and inserting in lieu thereof "within 1 year after the close of the biennium," except that, in the case of a member who retires under section 8335(d) or 8336(m), and who has deductions withheld from his pay or has made deposit covering his last 5 years of service.

(d) ADMINISTRATIVE REGULATIONS.—The Office of Personnel Management, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(e) EFFECTIVE DATES.—

(1) YEARS OF SERVICE; ANNUITY COMPUTATION.—

(A) SERVICE AFTER EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1996, and shall apply only with respect to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed on or after January 1, 1996;

(ii) the service of a Congressional employee as a Congressional employee performed on or after January 1, 1996.

(B) CLAIMS COURT JUDGE, BANKRUPTCY JUDGE, MILITARY APPEALS.—Section 8339(d)(7) of title 5, United States Code, is amended by striking out "service" and inserting in lieu thereof "service performed before January 1, 1996.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall be effective as of October 1, 1995.

(2) PROVISIONS RELATING TO PAYMENTS FOR FISCAL YEAR 1996.—

(A) AMOUNTS NOT YET PAID.—If any payment may be made to the Postal Service Fund, on or after the date of the enactment of this Act, pursuant to any appropriation for fiscal year 1996 authorized by section 2004 of title 39, United States Code (as in effect before the effective date of this section), any amount equal to the amount of such payment shall be paid from such Fund into the Treasury as miscellaneous receipts.

Subtitle B—Patent and Trademark Fees

SEC. 6011. PATENT AND TRADemark FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998'' and inserting "2002''; and

(2) in subsection (b) by striking "1998'' and inserting "2002''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on January 1, 1996.

(2) PROVISIONS RELATING TO PAYMENTS FOR FISCAL YEAR 1996.—

(A) AMOUNTS NOT YET PAID.—If any payment may be made to the Postal Service Fund, on or after the date of the enactment of this Act, pursuant to any appropriation for fiscal year 1996 authorized by section 2004 of title 39, United States Code (as in effect before the effective date of this section), any amount equal to the amount of such payment shall be paid from such Fund into the Treasury as miscellaneous receipts.

Subtitle B—Patent and Trademark Fees

SEC. 6012. PATENT AND TRADemark FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998'' and inserting "2002''; and

(2) in subsection (b) by striking "1998'' and inserting "2002''

(3) in subsection (c) by striking out "1998'' and inserting "2002''

(4) by adding at the end the following:

"(5) Liabilities of the former Post Office Department relating to section 2003(e)(2) of such title shall be transferred to the Postal Service pursuant to section 403 of such title, and are depicted on the plat map of the District of Columbia in and to the land of, and improvements on, Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

Subtitle C—GSA Property Sales

SEC. 6013. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—With respect to the sale of Governors Island, New York, by the Government of the United States to the City of New York or the city of New York, and all improvements on, improvements thereon, and real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

(b) AUTHORITY TO TRANSFER SURPLUS REAL PROPERTY FOR HOUSING USE.—Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) is amended by adding at the end the following:

"(ii) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any nonprofit organization which exists for the primary purpose of providing housing or housing assistance for low-income individuals or families, surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

(2) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any nonprofit organization which exists for the primary purpose of providing housing or housing assistance for low-income individuals or families, surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

(2) To the extent that the proceeds from the sale will be used to facilitate and encourage homeowner and developer opportunities through the construction of self-help housing, under terms which require that the person receiving the assistance contribute a significant amount of labor toward the construction; and

(b) the dwellings constructed with property transferred under this subsection shall be of acceptable quality and comply with local building and safety codes and standards and shall be available at prices below the prevailing market prices.

TITLE VII—TRANSFORMATION OF THE MEDICAID PROGRAM

SEC. 7000. SHORT TITLE OF TITLE; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE OF TITLE.—This title may be cited as the "Medicaid Transformation Act of 1995.''

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

Sec. 7001. Medicaid program.

Sec. 7002. Transformation of medicare program.

Sec. 7003. Medicare/MediGrant integration demonstration project.
PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"(a) DESCRIPTION.—A MediGrant plan shall include a description of the strategic objectives and performance goals the State has established for providing health care services to low-income populations under this title, including a general description of the manner in which the plan is designed to meet these objectives and goals.

"(b) C ERTAIN OBJECTIVES AND GOALS REQUIRED.—A MediGrant plan shall include strategic objectives and performance goals relating to rates of childhood immunizations and reductions in infant mortality.

"(c) CONSIDERATIONS.—In specifying these objectives and goals, the Secretary may consider factors such as the following:

"(1) The State's priorities with respect to providing assistance to low-income populations.

"(2) The State's priorities with respect to the general public health and the health status of individuals eligible for assistance under the MediGrant plan.

"(3) The State's financial resources, the particular economic conditions in the State, and relative adequacy of the health care infrastructure in different regions of the State.

"(d) PERFORMANCE MEASURES.—To the extent practicable—

"(1) one or more performance goals shall be established by the State for each strategic objective identified in the MediGrant plan; and

"(2) the MediGrant plan shall describe, how program performance will be measured:

"(A) measured through objective, independently verifiable means; and

"(B) compared against performance goals, in order to determine the State's performance under this title.

"(e) PERIOD COVERED.—

"(1) Strategic objectives shall cover a period of not less than 5 years and shall be updated and revised at least every 3 years.

"(2) PERFORMANCE GOALS.—The performance goals shall be established for dates that are not more than 3 years apart.

SEC. 2102. ANNUAL REPORTS.

"(a) IN GENERAL.—In the case of a State with a MediGrant plan for part or all of a fiscal year, no later than March 31 following such fiscal year (or March 31, 1998, in the case of fiscal year 1996) the Secretary finds substantial non-compliance of the plan with the requirements of this title under section 2154.

"(b) CONTENTS.—Each annual report under this section for a fiscal year shall include the following:

"(1) Expenditure and beneficiary summary.

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), summary statistics on the utilization of health care services under the MediGrant plan during the year (and during any portion of fiscal year 1996) during which the MediGrant plan was in effect under this title, as follows:

"(i) Aggregate medical assistance expenditures, disaggregated to the extent required to determine compliance with the set-aside requirements of subsections (a) through (d) of section 2121(d) and to compute the case mix index under section 2121(d)(3).

"(ii) For each general category of eligible individuals (specified in subsection (c)(1)), aggregate medical assistance expenditures and the total and average number of eligible individuals under the MediGrant plan.

"(iii) By each general category of eligible individuals, total expenditures for payments to capitated health care organizations (as defined in section 2144(c)(1)).

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, a summary of—

"(i) all expenditures under the MediGrant plan, and

"(ii) the total and average number of eligible individuals under the MediGrant plan for each general category of eligible individuals.

"(C) Utilization summary.

"(A) Initial summary.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), summary statistics on the utilization of health care services under the MediGrant plan during the year (and during any portion of fiscal year 1996) during which the MediGrant plan was in effect under this title, as follows:

"(i) The total number of administrative expenditures.

"(B) Subsequent summaries.—For reports for each succeeding fiscal year, summary statistics on the utilization of health care services under the MediGrant plan.

"(3) ACHIEVEMENT OF PERFORMANCE GOALS.—With respect to each performance goal established under section 2101 and applicable to the year involved—

"(A) a brief description of the goal;

"(B) a description of the methods to be used to measure the attainment of such goal;

"(C) data on the actual performance with respect to the goal;

"(D) a review of the extent to which the goal was achieved, based on such data; and

"(E) if a performance goal has not been met—

"(i) why the goal was not met, and

"(ii) actions to be taken in response to such performance, including adjustments in performance goals or program activities for subsequent years.

"(4) PROGRAM EVALUATIONS.—A summary of the findings of evaluations under section 2105 completed during the fiscal year covered by the report.

"(5) FRAUD AND ABUSE AND QUALITY CONTROL ACTIVITIES.—A general description of the State's activities under part D to detect and deter fraud and abuse and to assure quality of services provided under the program.

"(6) PLAN ADMINISTRATION.—

"(A) A description of the administrative roles and responsibilities of entities in the State responsible for administration of this title and organization of the State primarily responsible for activities under this title.

"(B) A brief description of each interstate compact (if any) the State has entered into with other States with respect to activities under this title.
"(D) General citations to the State statutes and administrative rules governing the State's activities under this title.

"(c) DESCRIPTION OF CATEGORIES.—In this section:

"(1) GENERAL CATEGORIES OF ELIGIBLE INDIVIDUALS.—Each of the following is a general category of eligible individuals:

[A] Pregnant women.

[B] Children.

[C] Blind or disabled adults who are not elderly individuals.

[D] Elderly individuals.

[E] Other adults.

"(2) CATEGORIES OF HEALTH CARE ITEMS AND SERVICES.—The health care items and services described in each paragraph of section 2171(a) shall be considered a separate category of health care items and services.

"SEC. 2103. PERIODIC, INDEPENDENT EVALUATIONS.

"(a) In General.—During fiscal year 1998 and every third fiscal year thereafter, each State shall provide for an evaluation of the operation of its MediGrant plan under this title.

"(b) INDEPENDENT.—Each such evaluation with respect to an activity under the MediGrant plan shall be conducted by an entity that is not responsible for the administration of the plan (for the purposes of this section, any such entity shall be considered independent of the plan). The entity conducting the evaluation shall be independent of the plan's sponsor. Each evaluation shall be conducted in accordance with a research design that is based on generally accepted models of survey design and sampling and statistical methods.

"SEC. 2104. DESCRIPTION OF PROCESS FOR MEDIGRANT PLAN DEVELOPMENT.

"Each MediGrant plan shall include a description of the process under which the plan shall be developed and implemented in the State (consistent with section 2105).

"SEC. 2105. CONSULTATION IN MEDIGRANT PLAN DEVELOPMENT.

"(a) PUBLIC NOTICE PROCESS.—Before submitting a MediGrant plan or a plan amendment described in subsection (c) to the Secretary under part E, a State shall provide:

[A] a public notice respecting the submittal of the proposed plan or amendment, including a general description of the plan or amendment.

[B] a copy to inspect or obtain (at reasonable charge) of the proposed plan or amendment.

[C] an opportunity for submittal and consideration of written comments on the proposed plan or amendment, and

[D] for consultation with one or more advisory committees established and maintained by the State.

"(b) CONTENTS OF NOTICE.—A notice under subsection (a)(1) for a proposed plan or amendment shall include a description of:

[A] the general purpose of the proposed plan or amendment (including applicable effective dates);

[B] where the public may inspect the proposed plan or amendment;

[C] how the public may obtain a copy of the proposed plan or amendment and the applicable charges (if any); and

[D] how the public may submit comments on the proposed plan or amendment, including any deadlines applicable to consideration of such comments.

"(c) AMENDMENTS DESCRIBED.—An amendment to a MediGrant plan described in this subsection is an amendment which makes a material and substantial change in eligibility under the MediGrant plan or the benefits provided under the plan.

"(d) PUBLICATION.—Notices under this section may be published as (selected by the State) in one or more daily newspapers of general circulation in the State or in any publication used by the State to reach the general public.

"(e) COMPARABLE PROCESS.—A separate notice, or notices, shall not be required under this section for a State if notice of the MediGrant plan or an amendment thereto was provided under a process specified in section 2105(d) if such process is substantially equivalent to the notice process specified in this section.

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"SEC. 2111. ELIGIBILITY AND BENEFITS.

"(a) DESCRIPTION OF GENERAL ELIGIBILITY AND BENEFITS.—Each MediGrant plan shall include a description (consistent with this title) of the following:

[B] General Eligibility Standards.—The general eligibility standards for the plan for eligible low-income and needy families including individuals described in subsection (b), including:

[A] any limitations as to the duration of eligibility;

[B] any eligibility standards relating to age, income and resources (including any standards relating to in-kind contributions, immigration status, or employment status of individuals), and

[C] methods of establishing and continuing eligibility and enrollment, including the methodology for determining eligibility.

[D] the eligibility standards in the plan that protect the income and resources of a married individual who is living in the community and whose family income is below the poverty line applicable to a family of the size involved, and

[E] any other standards relating to eligibility for medical assistance under the plan.

"(2) SCOPE OF ASSISTANCE.—The amount, duration, and scope of health care services and supplies, and differences among different eligible population groups.

"(3) DELIVERY METHOD.—The State's approach to delivering medical assistance, including a general description of—

[A] the use (or intended use) of vouchers, fee-for-service, or managed care arrangements; and

[B] utilization control systems.

"(4) FEES-FOR-SERVICE BENEFITS.—To the extent that medical assistance is furnished on a fee-for-service basis—

[A] how the State determines the qualifications of health care providers eligible to provide such assistance; and

[B] how the State determines rates of reimbursement for providing such assistance.

"(5) COST-SHARING.—Beneficiary cost-sharing (if any), including variations in such cost-sharing by population group or type of service and financial responsibilities of parents of recipients who are members of families whose income is below the Federal poverty level applicable to a family of the size involved.

"(6) UTILIZATION INCENTIVES.—Incentives or requirements (if any) to encourage the appropriate utilization of services.

"(7) SUPPORT FOR CERTAIN HOSPITALS.—

[A] IN GENERAL.—With respect to hospitals described in subparagraph (B) located in the State, the Medigrant plan (including any provisions that may provide for federal assistance to the State to allow such hospitals to charge related to the cost of covered nursing facility services for the promotion of long-term care services for the child's parent under the plan.

[B] HOSPITALS DESCRIBED.—A hospital described in subparagraph (B) is a short-term acute care general hospital or a children's hospital.

"(8) IN GENERAL.—A State may not contract with a capitated health care organization, as defined in section 2134(c), for the provision of medical assistance under a MediGrant plan or the benefits provided under the plan.

"(d) I MMUNIZATIONS FOR CHILDREN.—The MediGrant plan shall provide medical assistance for immunizations for children eligible for any medical assistance under the MediGrant plan.

"(e) P REEXISTING CONDITION EXCLUSIONS.—Notwithstanding any other provision of this title—

[A] a MediGrant plan may not deny or exclude coverage of any item or service for an eligible individual for benefits under the MediGrant plan for such item or service on the basis of a preexisting condition.

[B] if a State contracts or makes other arrangements (through the eligible individual or through another entity) with a capitated health care organization, insurer, or other entity, for the provision of items or services to eligible individuals under the MediGrant plan and the State permits such organization, insurer, or other entity to exclude coverage of a covered item or service on the basis of a preexisting condition, the State shall provide, through its MediGrant plan, for such coverage (through direct payment or reimbursement) of any item or service denied or excluded on the basis of a preexisting condition.

"(f) FAMILY RESPONSIBILITY.—A MediGrant plan may not require an adult child with a family income below the State median income (as determined by the State) to contribute to the cost of covered nursing facility services for the promotion of long-term care services for the child's parent under the plan.

"(g) SOLVENCY STANDARDS FOR CAPITATED HEALTH CARE ORGANIZATIONS.—

[A] IN GENERAL.—A State may not contract with a capitated health care organization, as defined in section 2134(c), for the provision of medical assistance under a MediGrant plan or the benefits provided under the plan.

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"(A) at full financial risk, as defined by the State, unless the organization meets solvency standards established by the State for private health maintenance organizations, or

(B) at such risk, unless the organization meets solvency standards that are established under the Medicare plan.

(2) TREATMENT OF PUBLIC ENTITIES.—Paragraph (1) shall not apply to an organization that is a public entity if the solvency of such organization is guaranteed by the State.

(3) TRANSITION.—In the case of a capitated health plan that as of the date of enactment of this title has entered into a contract with a State for the provision of medical assistance under title XIX under which the organization meets solvency standards that are defined in paragraph (2) of the total funds expended under the plan for all medical assistance for the fiscal year.

(2) MINIMUM LOW-INCOME FAMILY PERCENTAGE.—The minimum low-income-family percentage specified in this paragraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which were attributable to expenditures for medical assistance as defined in any (or all) of paragraphs (2) of subsections (a), (b), (c), and (d) if the State determines (and certifies to the Secretary) that—

(i) the performance goals established under section 2101 relating to the respective population can reasonably be met without the expenditure of such lower percentage of funds, and

(ii) the performance goals established under section 2101 relating to the respective population can reasonably be met with such lower level of expenditures.

(3) MEDICARE PREMIUM ASSISTANCE.—The Medicare premium assistance furnished to individuals for which the actual State expenditures described in paragraph (1) of subsections (a), (b), (c), and (d) is lower than the minimum percentages specified in any (or all) of paragraphs (2) of such subsections if an independent actuary determines and certifies to the State that the Medicare plan is reasonably designed to result in a level of expenditures which is consistent with the requirements of such subsections.

(4) LIMIT ON VARIATION.—Subparagraph (A) shall not apply in the case of a Medicare plan for which the actual State expenditures described in any (or all) of paragraphs (1) of subsections (a), (b), (c), and (d) is less than 95 percent of the amount of actual State expenditures specified in any (or all) of paragraphs (2) of subsections (a), (b), (c), and (d).
of subsections (a), (b), (c), and (d) in a reasonable manner consistent with reports submitted to the Secretary for the fiscal years involved and medical assistance attributable to the exception provided under section 1903(v)(2) shall not be considered to be expenditures for medical assistance.

(h) Benefit Excluded for Purposes of Computation of Asset Test.—In this section, the term "mandated benefits"—

"(1) means medical assistance for items and services described in section 1905(a) to the extent such assistance is subject to the limitation described in subsection (a)(1) with respect to such items and services that was required to be provided under title XIX,

"(2) includes medical assistance for services required under the MediGrant plan and included in the public cost-sharing schedule,

"(3) does not include medical assistance attributable to disproportionate share payment adjustments described in section 1923.

SEC. 2113. PREMIUMS AND COST-SHARING.

(a) In General.—Subject to subsection (b), if any charges are imposed under the MediGrant plan for cost-sharing (as defined in subsection (d)), such cost-sharing shall be pursuant to a public cost-sharing schedule.

(b) Limitation on the Amounts of Premium and Certain Cost-Sharing for Low-Income Families Including Children or Pregnant Women.—

"(1) In General.—In the case of a pregnant woman who is a member of a family described in paragraph (2)—

"(A) includes a child or a pregnant woman,

"(B) is made eligible for medical assistance under the MediGrant plan, and

"(C) the income of which does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(2) Family Described.—A family described in this paragraph is a family (which may be an individual) that—

"(A) includes a family (which may be an individual) that—

"(i) is not available to each of them, and

"(ii) includes property, the following rules apply:

(1) Total Joint Resources. —There shall be considered available to each of them, and

(2) Attribution of Income. —In determining the eligibility for medical assistance of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse.

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(i) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse.

"(ii) if payment of income is made to both the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse.

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(i) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse.

"(ii) if payment of income is made to both the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse.

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(i) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse.

"(ii) if payment of income is made to both the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse.

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(i) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse.

"(ii) if payment of income is made to both the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse.
or (d) of section 1613, and the term `resources' does not include—

At a fee not exceeding the reasonable expenses of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State may, at its option as a condition under this section. If the request is not part of an application for medical assistance under title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing the assessment.

If the request is not part of an application for medical assistance under this title, regardless of any State laws relating to community property or the division of marital property—

(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such an assignment, or

(C) the State determines that denial of eligibility would cause undue hardship. In determining the resources of an institutionalized spouse at the time of application for medical assistance under this title, regardless of any State laws relating to community property or the division of marital property—

(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such an assignment, or

(C) the State determines that denial of eligibility would cause undue hardship.

Separate treatment of resources after eligibility for medical assistance established under this section (except as provided in subparagraph (B), the community spouse monthly income allowance for a community spouse is an amount by which—

(A) except as provided in paragraph (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (4) of the spouse, exceeds

(i) the amount otherwise available to the community spouse (determined without regard to such an allowance).

(B) COURT ORDERED SUPPORT.—If a court has ordered a support provision against a community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

(4) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—

(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (B), is equal to or exceeds—

(i) 150 percent of 1⁄12 of the poverty line applicable to a family unit of 2 members, plus

(ii) an excess shelter allowance (as defined in subparagraph (A), (B), or (C), of the method for computing the minimum monthly maintenance needs allowance, there shall be deducted from the monthly income the following amounts in the following order:

(A) personal needs allowance (as defined in paragraph (3)), and

(B) a community spouse monthly income allowance (as defined in paragraph (3)), but only to the extent the institutionalized spouse is made available to (or for the benefit of) the community spouse.

(5) EXCESS SHELTER ALLOWANCE.—In paragraph (4)(A)(iii), the term ‘excess shelter allowance’ means, for a community spouse, the amount by which the sum of—

(A) the community spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charges (in the case of the community spouse's principal residence), and

(B) the standard utility allowance (used by the Metro-Texas Standard (S) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses, exceeds 30 percent of the amount described in paragraph (4)(A)(ii), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B), in determining the minimum monthly maintenance needs allowance, charges, for the community spouse's principal residence, and

(6) TREATMENT OF INCURRED EXPENSES.—With respect to the post-eligibility treatment of income under this section, there shall be disregarded reparation payments made by the Federal Republic of Germany and, there shall be taken into account amounts for incurred expenses to the extent of the necessary medical expenses resulting in significant financial duress, there shall be substituted, for the monthly maintenance needs allowance, an amount adequate to provide such additional income as is necessary.

(7) LIMITATION ON DEDUCTION.—If either such spouse establishes in a hearing under this subsection that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to extraordinary circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance permitted under subsection (f), of the amount of any family allowances (described in subsection (d)(1)(B)), of the method for computing the amount of the community spouse resources allowance (in relation to the community spouse, or a representative payee (if both are aged, blind, or disabled, and there is no necessary medical expense resulting in significant financial duress) or, if the State does not use such an allowance, the spouse's actual utility expenses, the excess shelter allowance, and the community spouse's principal residence, and

(8) OPT OUT.—If either such spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to extraordinary circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance permitted under subsection (f), (A) a determination of eligibility for medical assistance of an institutionalized spouse, or

(B) a request by either the institutionalized spouse, or the community spouse, or a representative payee (if both are aged, blind, or disabled, and there is no necessary medical expense resulting in significant financial duress) or, if the State does not use such an allowance, the spouse's actual utility expenses, the excess shelter allowance, and the community spouse's principal residence, and

(9) NOTICE AND HEARING.—(A) A hearing shall be held in each case prior to the date of the order denying the resources of the institutionalized spouse as resources, or the community spouse, or a representative payee (if both are aged, blind, or disabled, and there is no necessary medical expense resulting in significant financial duress) or, if the State does not use such an allowance, the spouse's actual utility expenses, the excess shelter allowance, and the community spouse's principal residence, and

(B) NOTICE OF DECISION.—If a hearing is held under subsection (f), there shall be given to each such spouse notice of the decision in writing within 30 days of the date of the hearing, and

(10) PROTECTION AGAINST DENIAL OF ELIGIBILITY.—In paragraphs (10) and (11), the term “eligibility for medical assistance” means the State's determination and the community spouse, which is reviewed by the State in determining the community spouse's eligibility for medical assistance, and

(11) REVIEW.—If, in any case, the district court determined that the community spouse's eligibility for medical assistance should be granted, the State shall, notwithstanding any provision of law to the contrary, consider the community spouse to be eligible for medical assistance.

(12) AMOUNTS REQUESTED BY THE INSTITUTIONALIZED OR COMMUNITY SPOUSE.—In subparagraph (A), the term ‘institutions or nursing facility’ includes an institutional setting with the community spouse.
amout equal to the community spouse resource allowance (as defined in paragraph (2), but only to the extent the resources of the institutionalized spouse are transferred to, or for the sole benefit of, the community spouse. The transfer under the preceding sentence shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account such factors as may be necessary to obtain a court order under paragraph (3).

(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DEFINED.—In paragraph (1), the ‘community spouse’ means the spouse of an institutionalized spouse.

(3) LIMITATION ON OBLIGATIONS.—

(a) ALLOTMENTS.—The Secretary shall provide for the computation of State obligation and outlay allotments in accordance with this section for each fiscal year beginning with fiscal year 1996.

(b) LIMITATION ON OBLIGATIONS.—

(1) IN GENERAL.—Subject to subparagraph (A), the Secretary shall not enter into obligations for any fiscal year in excess of the obligation allotment for that State for the fiscal year under paragraph (4). The sum of such obligation allotments for all States shall not exceed the dollar amounts specified in paragraph (4)(B) and excluding changes in allotments effected under subparagraph (B) and excluding changes in allotments under clause (ii) of paragraph (3) for that fiscal year.

(2) ADJUSTMENTS.—

(i) CARRYOVER OF ALLOTMENT PERMITTED.—If the amount of obligations entered into under this part with a State for a quarter in a fiscal year is less than the amount of the obligation allotment under this section for the State for the fiscal year, the amount of the difference shall be added to the amount of the State obligation allotment otherwise provided under this section for the succeeding fiscal year. This clause shall be applied separately with respect to the portion of the obligation allotment that is attributable to the supplemental outlay allotment under subsection (i).

(ii) REDUCTION FOR POST-ENACTMENT NEW OBLIGATIONS UNDER TITLE XIX IN FISCAL YEAR 1996.—The amount of the obligation allotment otherwise provided under this section for fiscal year 1996 for a State shall be reduced by the amount of the obligations entered into with respect to the State under section 1903(b)(4)(A) after the date of the enactment of this title.

(c) NO EFFECT ON PRIOR YEAR OBLIGATIONS.—Subparagraph (A) shall not apply to or affect obligations for a fiscal year prior to fiscal year 1996.

(d) OBLIGATION.—For purposes of this section, the obligation entered into under this part with a State for a quarter (taking into account any adjustments described in such subsection) shall be treated as the obligation of such amount for the State as of the first day of the quarter for which the obligation is made.

(e) AGGREGATE LIMIT ON NEW OBLIGATION AUTHORITY.—

(A) IN GENERAL.—For purposes of this subsection, the aggregate limit on new obligation authority for any fiscal year is the pool amount under subparagraph (b) for the fiscal year, divided by the payout adjustment factor described in subparagraph (B) for the fiscal year.

(B) PAYOUT ADJUSTMENT FACTOR.—For purposes of this subsection, the ‘payout adjustment factor’—

(i) for fiscal year 1996 is 0.950,

(ii) for fiscal year 1997 is 0.986, and

(iii) for a subsequent fiscal year is 0.986.
``(E) TRANSITIONAL CORRECTION FOR FISCAL YEAR 1997.—

``(i) IN GENERAL.—The obligation amount for fiscal year 1997 for any State described in clause (ii) shall be increased by 90 percent of the amount by which 90 percent of the amount described in clause (iii) exceeds the amount described in clause (ii), divided by the payout adjusting factor specified in paragraph (3)(B) for fiscal year 1996. The increase under this clause shall be paid to a State in the first quarter of fiscal year 1997.

``(ii) STATE DESCRIBED.—A State described in this clause is a State for which—

``(I) the amount of the pre-enactment-obligation outlays (as established for such State under subchapter III, as modified by this title) exceeded the amount paid under paragraph (1) for fiscal year 1996. The increase under this clause shall be a State in the first quarter of fiscal year 1997.

``(iii) FISCAL YEAR 1997.—Beginning with fiscal year 1998, the State outlay allotment for a State under this subsection for any fiscal year (beginning with fiscal year 1998) that is less than the State outlay allotment for such State under this subsection for the fiscal year 1997, in the case of a State for which the amount of the State outlay allotment for such State under this subsection for the fiscal year 1997 exceeded its outlay allotment under this subsection for the previous fiscal year by more than the national MediGrant growth percentage for fiscal year 1997, 104 percent of the amount of the State outlay allotment under this subsection for the fiscal year 1997 (or, if less, beginning with fiscal year 2003, 95 percent of the national MediGrant growth percentage for such fiscal year).

``(B) CEILINGS.—

``(i) IN GENERAL.—Subject to clause (ii), in no case shall the amount of the State outlay allotment for any fiscal year be greater than the product of—

``(I) the State outlay allotment under this subsection for the State for the preceding fiscal year; and

``(II) the applicable percent (specified in clause (ii) or (iii), as the case may be) for the fiscal year involved.

``(ii) GENERAL RULE FOR APPLICABLE PERCENT.—For purposes of clause (i), subject to clause (iii), the ‘applicable percent’—

``(I) for fiscal year 1997 is 109 percent, and

``(II) for a subsequent fiscal year is 105.33 percent.

``(iii) SPECIAL RULE.—For a fiscal year after fiscal year 1997, in the case of a State (among the 50 States and the District of Columbia) that is one of the 10 States with the lowest Federal MediGrant spending per resident-in-poverty rate, the Federal MediGrant spending per resident-in-poverty rate for a State for a fiscal year is equal to—

``(I) the State's outlay allotment under this subsection for the previous fiscal year (determined without regard to paragraph (4)), divided by

``(II) the average annual number of residents of the State in poverty (as defined in subsection (d)(2)) with respect to the fiscal year.

``(C) SPECIAL RULE.—Notwithstanding the preceding subparagraphs of this paragraph, the State outlay allotment for—

``(I) New Hampshire for each of the fiscal years 2000 through 2006,

``(II) Louisiana, subject to subsection (iii), for each of the fiscal years 1997 through 2000, is $2,622,000,000, and

``(III) Louisiana and Nebraska for fiscal year 1997, as otherwise determined, shall be increased by $37,048,207 and $106,132,408, respectively.

``(iv) Each of fiscal years 1996, 1997, and 1998, as otherwise determined, shall be increased by $90,000,000.

``(v) EXCEPTION.—A State described in clause (i) or (ii) of clause (iii) may apply to the Secretary for the use of the State outlay allotment otherwise determined under this subsection for any fiscal year, if such State notifies the Secretary not later than March 1 of such fiscal year that such State will be able to expend sufficient State funds in such fiscal year to qualify for such allotment.

``(vi) TREATMENT OF INCREASE AS SUPPLEMENTAL ALLOTMENT.—Any increase in an outlay allotment under clause (i)(III) or (iv)(IV) shall not be included in accounts for purposes of determining the scalar factor under paragraph (2) for fiscal year 1997, any State outlay allotment for a fiscal year after fiscal year 1997, the pool amount for a fiscal year after fiscal year 1997, the calculation of the national MediGrant growth percentage for any fiscal year.

``(D) ELECTION.—In order to reduce variations in increases in outlay allotments over time, any of the 50 States or the District of Columbia may...
elect (by notice provided to the Secretary by not later than April 1, 1996) to adopt an alternative growth rate formula under this paragraph for the determination of the State's outlay allotment for fiscal year 1996 and for the determination of the amount of such allotment in subsequent fiscal years.

(B) FORMULA.—The alternative growth formula under this paragraph may be any formula under which a portion of the State's outlay allotment for fiscal year 1996 under paragraph (1) is deferred and applied to increase the amount of its outlay allotment for one or more subsequent fiscal years, so long as the total amount of such increases for all such subsequent fiscal years does not exceed the amount of the outlay allotment of the State for fiscal year 1996.

(5) COMMONWEALTHS AND TERRITORIES.—

(A) IN GENERAL.—The outlay allotment for each of the Commonwealths and territories for a fiscal year is the maximum amount that could have been certified under section 1108(c)(as so in effect).

(B) DETERMINATION OF NATIONAL MEDIGRANT.

For purposes of subparagraph (A), the 'national average per recipient expenditures under this title in the 50 States and the District of Columbia in the most recent fiscal year referred to in clause (i), that were individuals described in such paragraph and (ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in the fiscal year involved.

(iii) the proportion of all individuals who received medical assistance under this title in the District of Columbia for a fiscal year is equal to the product of—

(iv) the number of residents in poverty (as defined in paragraph (2)(A)) for such State or the District of Columbia for the fiscal year, which was available and, for this purpose—

(2) RESIDENTS IN POVERTY.—In this section—

(A) RESIDENTS IN POVERTY DEFINED.—The term 'residents in poverty' means an individual whose family income does not exceed the poverty threshold (as such terms are defined by the Office of Management and Budget and are generally interpreted and applied by the Bureau of the Census for the year involved).

(E) NATIONAL AVERAGE SPENDING PER RECIPIENT DEFINED.—For purposes of this paragraph, the 'national average spending per recipient' for a fiscal year is equal to the sum of—

(i) the national average spending per recipient expenditures with respect to elderly individuals in such State or District for the fiscal year (determined under subparagraph (C)(i)(I)), and

(ii) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such clause.

(2) RESIDENTS IN POVERTY.—In this section—

(A) CASE MIX INDEX.—The case mix index for a fiscal year for which data are available for individuals who are blind or disabled shall be determined by the Secretary using the most recent data available.

(B) DETERMINATION OF NATIONAL AVERAGE SPENDING PER WAGE DATA.—If for a fiscal year there is inadequate data to compute such averages based on expenditures and numbers and individuals receiving medical assistance under this title, the Secretary may compute such averages based on expenditures and numbers of such individuals under title XIX for the most recent fiscal year for which data are available and, for this purpose—

(i) any reference in subparagraph (B)(i) to 'elderly individuals' shall be deemed a reference to individuals whose eligibility for medical assistance is based on being 65 years of age or older;

(ii) the proportion, of all individuals who received medical assistance under this title in the 50 States and the District of Columbia in the most recent fiscal year referred to in such subparagraph.

(3) CASE MIX INDEX.—

(A) IN GENERAL.—The outlay allotment for each of the Commonwealths and territories for a fiscal year is equal to the product of the following 4 factors:

(i) the sum of—

(ii) the projected per recipient expenditures with respect to elderly individuals in such State or District for the fiscal year (determined under subparagraph (A)(i)(I)), and

(iii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in such subparagraph.

(iv) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in such subparagraph.

(F) DETERMINATION OF NATIONAL AVERAGES AND PROPORTIONS.—

The national averages per recipient and the proportions referred to in clauses (i) and (ii), respectively, of subparagraphs (B), (C), and (D) and subparagraph (E) shall be determined by the Secretary using the most recent data available.

(3) CASE MIX INDEX.—

If for a fiscal year there is inadequate data to compute such averages based on expenditures and numbers of individuals receiving medical assistance under this title, the Secretary may compute such averages based on expenditures and numbers of such individuals under title XIX for the most recent fiscal year for which data are available and, for this purpose—

(i) any reference in subparagraph (B)(i) to 'elderly individuals' shall be deemed a reference to individuals whose eligibility for medical assistance is based on being 65 years of age or older;

(ii) the proportion, of all individuals who received medical assistance under this title in the 50 States and the District of Columbia in the most recent fiscal year referred to in such subparagraph, who are described in such clause.

(3) CASE MIX INDEX.—

For purposes of subparagraph (A), the 'national average spending per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

(ii) the proportion, of all individuals who received medical assistance under this title in such State or the District of Columbia for a fiscal year is equal to the product of—

(iii) the national average spending per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

(3) CASE MIX INDEX.—

For purposes of this subparagraph, the 'national average spending per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year referred to in such subparagraph.

The national average spending per recipient expenditures with respect to elderly individuals in such State or District for the fiscal year shall be determined by the Secretary using the most recent data available.
each fiscal year (beginning with fiscal year 1997), the Secretary shall initially compute, after consultation with the Comptroller General, and publish in the Federal Register notice of the proposed obligation outlay allotments for each State under this section (not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of the methodology and data used in deriving such allotments for the year.

(2) REVIEW BY GAO.—The Comptroller General shall submit to Congress by not later than August 1 of each such fiscal year, a report analyzing such allotments and the extent to which they comply with the precise requirements of this section.

(3) NOTICE OF FINAL ALLOTMENTS.—Not later than July 1 before the beginning of each such fiscal year, the Secretary, taking into consideration any analysis contained in the report of the Comptroller General under paragraph (2), shall compute and publish in the Federal Register notice of the final allotments for each State under this section (both taking into account and not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of any changes in such section from the initial allotments published under paragraph (1) for the fiscal year and the reasons for such changes. Once published under this paragraph, the Secretary is not authorized to change such allotments.

(4) GAO REPORT ON FINAL ALLOTMENTS.—The Comptroller General shall submit to Congress by not later than May 15 of each such fiscal year, a report analyzing the final allotments under paragraph (3) and the extent to which they comply with the precise requirements of this section.

(5) SUPPLEMENTAL ALLOTMENT FOR EMERGENCY HEALTH CARE SERVICES TO CERTAIN ALIENS.—

(A) IN GENERAL.—Notwithstanding the provisions of this section, the amount of the State outlay allotment for each of fiscal years 1996 to 1999, inclusive, and the supplemental outlay allotment for each State under subsection (c) of section 2212(e) and for which the exception described in paragraph (2) of such section applies. Section 2212(e)(3) shall apply to such assistance in the same manner as it applies to medical assistance described in such section.

(B) SUPPLEMENTAL OUTLAY ALLOTMENT.—

(i) For purposes of paragraph (1), the amount of the supplemental outlay allotment for a supplemental allotment eligible State for a fiscal year is equal to the supplemental allotment ratio (as defined in subparagraph (C)) multiplied by the supplemental pool amount (specified in subparagraph (D)) for the fiscal year.

(C) SUPPLEMENTAL ALLOTMENT ELIGIBLE STATE.—In this subsection, the term 'supplemental allotment eligible State' means one of the 51 States with the highest number of undocumented aliens residing in the State, as determined under section 1137.

(D) SUPPLEMENTAL POOL AMOUNT.—In this paragraph, the 'supplemental pool amount'—

(i) for fiscal year 1997 is $672,329,551.

(ii) for fiscal year 1998 is $673,388,655.

(iii) for fiscal year 1999 is $702,313,450.

(iv) for fiscal year 2000 is $733,140,258.

(v) for fiscal year 2001 is $763,831,886.

(E) DETERMINATION OF NUMBER.—

(i) For purposes of paragraph (1), the number of undocumented aliens residing in a State under this paragraph—

(ii) for fiscal year 1997 is 267,352.

(iii) for fiscal year 1998 is 270,314.

(iv) for fiscal year 1999 is 273,140,258.

(v) for fiscal year 2000 is 276,831,886.

(F) TREATMENT FOR OBLIGATION PURPOSES.—For purposes of computing obligation allotments under subsection (a) and section 1137(b), the number of such aliens residing in such State for that fiscal year shall be added to the amount under subsection (b) for that fiscal year, and

(G) SEQUENCE OF OBLIGATIONS.—For purposes of carrying out this title, payments to a supplemental allotment eligible State under section 2212 that are attributable to expenditures for medical assistance described in the second sentence of paragraph (1) shall first be counted toward the supplemental outlay allotment provided under this subsection, rather than toward the outlay allotment otherwise provided under this section.

SEC. 2212. PAYMENTS TO STATES.

(a) AMOUNT OF PAYMENT.—From the allotment of a State under section 2211 for a fiscal year, subject to the succeeding provisions of this section, the Secretary shall pay to each State which has a MedIGrant plan approved under part E, for each quarter in the fiscal year—

(A) an amount equal to the applicable Federal medical assistance percentage (as defined in subsection (c)) of the total amount expended during such quarter as medical assistance under the plan; plus

(B) an amount equal to the applicable Federal medical assistance percentage of the total amount expended during such quarter for medically-related services (as defined in section 2212(e)); plus

(c) FEDERAL SHARE OF RECOVERIES.—The portion of the amounts expended during such quarter for the design, development, and installation of information systems and for providing incentives to promote the enforcement of medical support orders, plus

(d) TIMING OF OBLIGATION OF FUNDS.—Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(e) DISALLOWANCES.—In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), the Secretary shall reduce the amount of the Federal payment in controversy to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party or by any other source.

(f) DISALLOWANCES.—In any case in which the Secretary determines that under this section the amount so estimated, reduced or increased, is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such payment or other adjustment as the Secretary may find necessary.

(4) GAO REPORT ON FINAL ALLOTMENTS.—The Comptroller General shall submit to Congress by not later than May 15 of each such fiscal year, a report analyzing the final allotments under paragraph (3) and the extent to which they comply with the precise requirements of this section.

(5) SUPPLEMENTAL ALLOTMENT FOR EMERGENCY HEALTH CARE SERVICES TO CERTAIN ALIENS.—

(A) IN GENERAL.—The Secretary shall then pay to the State, in such installments as the Secretary may deem necessary, such amount as the Secretary determines should be added to the outlay allotment of the State for that fiscal year.

(B) TREATMENT AS OVERPAYMENTS.—Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party or by any other source.

(C) RECOVERY OF OVERPAYMENTS.—For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person other than a beneficiary or an entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).

(D) SHARE OF FEDERAL RECOVERIES.—The portion of the States' share of the total sum of such expended amounts which is recovered under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(E) DISALLOWANCE IN DISABILITY.—In any case in which the Secretary determines that there has been an underpayment which the Secretary determines was made under this section (or section 1903(d)) to such State for any prior quarter and with respect to which adjustment has not already been made (in the same manner as subsections (a) through (d) of section 1903).

(F) TREATMENT OF OBLIGATIONS.—The amount of the obligation (or portion thereof) for which the Secretary shall pay to such State under section 1137 shall be treated as a payment for purposes of this title.
"(c) APPLICABLE FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—In this section, except as provided in subsection (f), the term ‘applicable Federal medical assistance percentage’ means the percentage of the State’s or the District of Columbia’s, at the State’s or the District’s option—

(1) the old Federal medical assistance percentage as determined in section 1115(c);

(2) the lesser of—

(A) a new Federal medical assistance percentage determined under subsection (e) or

(B) the old Federal medical assistance percentage plus 10 percentage points; or

(3) 60 percent.

(d) OLD FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the term ‘old Federal medical assistance percentage’ means, for any State, the percentage by which the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska and Hawaii).

(2) ABBREVIATION OF RATIO.—In no case shall the old Federal medical assistance percentage be less than 50 percent or more than 83 percent.

(3) PROMULGATION.—The old Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(6)(B).

(e) NEW FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—

(1) IN GENERAL.—Except as provided in subparagraph (f), the term ‘new Federal medical assistance percentage’ means, for each of the 50 States and the District of Columbia, 100 percent less the State percentage; and the State percentage is that percentage which bears the same ratio to 45 percent as the square of the per capita income of such State bears to the square of the per capita income of the continental United States.

(2) LIMITATION.—For purposes of the preceding sentence, the adjusted per capita income for Alaska shall be determined by dividing the State’s most recent 3-year average per capita by the input cost index for such State (as determined under section 2123(d)(4)).

(3) INDIAN HEALTH SERVICE FACILITIES.—

(A) IN GENERAL.—The old and new Federal medical assistance percentages shall be 100 percent with respect to the amounts expended as medical assistance which are received through a facility described in subparagraph (B) of an Indian tribe or tribal organization or an Urban Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).

(B) FACILITY DESCRIBED.—For purposes of subparagraph (A), a facility described in this subparagraph is a facility of an Indian tribe if—

(i) the facility is located in a State which, as of the date of the enactment of this title, was not operating its State plan under title XIX pursuant to State waiver approved under section 1115;

(ii) the facility is not an Indian Health Service facility; and

(iii) the tribe owns at least 2 such facilities, and

(iv) the tribe has at least 50,000 members (as of the date of the enactment of this title).

(B) EXCEPT FOR EMERGENCY SERVICES.—

(1) IN GENERAL.—The administrative expenses under this title shall only be used to carry out the activities:—

(A) Quality assurance.

(B) The development and operation of the certification program for nursing facilities and intermediate care facilities for the mentally retarded under section 2127.

(E) Anti-fraud activities.

(F) Independent audits.

(G) Administrative expenses to meet reporting requirements under this title.

(D) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its Medicaid plan to the extent that a private insurer (as defined by the Secretary by regulation) and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, a health maintenance organization, a group health plan, a Medicare plan to the extent that a private insurer would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

(2) LIMITATION ON RANGE.—The administrative expenses provided under this title shall be subject to limitation under the Medicaid grant plan for—

(A) medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter, or

(B) administrative expenses (other than expenses described in paragraph (2) during the first 8 quarters in which the plan is in effect under this title) for quarters in a fiscal year to the extent such expenditures exceed the sum of $20,000,000 plus 10 percent of the total expenditures under the plan for the quarter, or

(C) LIMITATIONS.—The administrative expenses referred to in this paragraph are expenditures under the Medicaid grant plan for the following activities:

(A) Quality assurance.

(B) The development and operation of the certification program for nursing facilities and intermediate care facilities for the mentally retarded under section 2127.

(E) Anti-fraud activities.

(F) Independent audits.

(G) Administrative expenses to meet reporting requirements under this title.

(D) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its Medicaid plan to the extent that a private insurer (as defined by the Secretary by regulation) and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, a health maintenance organization, a group health plan, a Medicare plan to the extent that a private insurer would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

(2) LIMITATION ON RANGE.—The administrative expenses provided under this title shall be subject to limitation under the Medicaid grant plan for—

(A) medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter, or

(B) administrative expenses (other than expenses described in paragraph (2) during the first 8 quarters in which the plan is in effect under this title) for quarters in a fiscal year to the extent such expenditures exceed the sum of $20,000,000 plus 10 percent of the total expenditures under the plan for the quarter, or

(C) LIMITATIONS.—The administrative expenses referred to in this paragraph are expenditures under the Medicaid grant plan for the following activities:

(A) Quality assurance.

(B) The development and operation of the certification program for nursing facilities and intermediate care facilities for the mentally retarded under section 2127.

(E) Anti-fraud activities.

(F) Independent audits.

(G) Administrative expenses to meet reporting requirements under this title.
determining whether a manufacturer is in compliance with the provisions of section 340B of the Public Health Service Act—

(3) EFFECT OF SUBSEQUENT AMENDMENTS.—For purposes of subparagraphs (C) and (D), in determining whether a manufacturer is in compliance with the provisions of section 340B of the Public Health Service Act, or section 3408 of the Public Health Service Act—

(1) LIMITATION ON PAYMENTS TO EMERGENCY SERVICES FOR NON-LAWFUL ALIENS.—

(2) EXCEPTION FOR EMERGENCY SERVICES.—Payment may be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

(3) OTHER FEDERALLY OPERATED OR FINANCED HEALTH CARE PROVISIONS.—If a State determined in accordance with regulations (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, an item or service under the MediGrant plan shall supply upon request specifically addressed to the entity by the Secretary or the State agency the information described in section 1128(b)(9).

(4) EXCLUSION.—

(a) IN GENERAL.—The MediGrant plan shall exclude any specified individual or entity from participation in the program specified by the Secretary when required by the Secretary to do so pursuant to section 1128 or section 1128A, and provide that no payment may be made under the plan for an item or service furnished by such individual or entity during such period.

(b) AUTHORITY.—In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the MediGrant plan for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII or under section 1128, 1128A, or 1866(b)(2).

(5) ACCESS TO INFORMATION.—The MediGrant plan shall provide that a State may not be impaired in the exercise of its authority with respect to the enforcement of this section by any federal authority.

(6) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 2132(b)(5) is that the State must provide for the following:

(1) INFORMATION REPORTING SYSTEM.—The plan must include a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) independent of the licensing of health care practitioners or providers by State licensing authorities in accordance with section 2133.

(2) SEC. 2133. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

(a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 2132(b)(5) is that the State must provide for the following:

(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners (or any other person is terminated, suspended, or other-
"(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

(D) Any negative action or finding by such authority or regulatory body that the practice or operation of the entity is conducted in a manner that is not conducive to the effective and efficient conduct of the entity's activities.

SEC. 2334. STATE MEDIGRANT FRAUD CONTROL UNITS

(a) In general.—Each MediGrant plan shall provide for such Federal, State, or local government which meets the following requirements.

(b) Units described.—For purposes of this section, the term `State MediGrant fraud control unit' means a single identifiable entity of the State government which meets the following requirements:

1. Organization.—The entity—

   (A) has a unit of the office of the State Attorney General or of another department of State government that is capable of being designated as an authority to prosecute individuals for criminal violations;

   (B) is in a State the constitution of which does not provide for the criminal prosecution of individuals committed to an administrative authority and has formal procedures that—

      (i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution, and

      (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecution.

   (C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of such violations to such an office) which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of offenses or violations relating to the program under this title.

2. Independence.—The entity is separate and distinct from any State agency that has principal responsibilities for administering or supervising the administration of the MediGrant plan.

3. Function.—The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the MediGrant plan.

4. Review of complaints.—The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the MediGrant plan, and for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

5. Oversight.—

   (A) In general.—The entity provides for, or referral for collection to a single State agency, of overpayments that are made under a MediGrant plan to health care providers and that are discovered by the entity in carrying out its activities.

   (B) Treatment of certain overpayments.—If an overpayment is the direct result of the failure of the provider (or the provider's billing agent) to adhere to a change in the billing instructions, any overpayment, in any case in which a change in the billing instructions was required and the provider did not correct the billing instructions before the submission of the claims on which the overpayment is based.

   (C) Personnel.—The entity employs such personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

SEC. 2335. ACTIONS AGAINST THIRD PARTIES AND OTHERS

(a) Third party liability.—The MediGrant plan shall provide for reasonable steps to—

   (1) ascertain the legal liability of third parties to pay for care and services available under the plan, including the collection of sufficient information to enable States to pursue claims against third parties, and

   (2) seek reimbursement for medical assistance furnished to the extent to which such third party is liable for payment and establish the amount of such liability.

(b) Beneficiary protection.—The MediGrant plan shall provide that in the case of a person furnishing services under the plan for which a third party may be liable for payment under the MediGrant plan, the person shall not seek to collect from the individual (or financially responsible relative) payment for the service provided in the absence of such third party liability, and

(c) may not refuse to furnish services to such an individual because of a third party's potential liability for payment for the service.

(2) Penalty.—A MediGrant plan may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to 3 times the amount of any payment sought to be collected by such person in violation of paragraph (1)(A).

(f) Applicability of State law.—The State shall have in effect laws under which, to the extent that payment has been made under the plan for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment from any other party for such health care items or services.

(g) Assignment of medical support rights.—The MediGrant plan shall provide for mandatory assignment of rights of payment for medical support and other medical care owed to related or dependent persons in accordance with section 462.

(h) Required laws relating to medical child support.—

   (1) In general.—Each MediGrant plan shall have in effect the following laws:

      (i) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

         (i) the child was born out of wedlock;

         (ii) the child is not claimed as a dependent on the parent's Federal income tax return, or

         (iii) the child does not reside with the parent or in the insurer's service area.

      (ii) A law that requires the parent of a child who is otherwise eligible for such coverage to make application to obtain coverage of such child through the State agency administering the Federal, State, or local government which meets the following requirements:

         (A) to permit such parent to enroll such child through their own application or by applying on behalf of such child through the office of the insurer designated in their service area.

         (B) to provide for the making of such application on behalf of such child through the office of the insurer designated in such service area.
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"(1) such court or administrative order is no longer in effect, or
"(2) the child is or will be enrolled in comparable health coverage through another insurer whose effective date is not later than the effective date of such disenrollment.

"(C) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—
"(i) to permit the parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment restrictions);
"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's parent, or by the State agency administering the program under this title or part D of title IV; and
"(iii) not to disenroll (or eliminate coverage of) any such child unless—
"(I) the employer is provided satisfactory written evidence that such court or administrative order is no longer in effect, or the employer is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment; and
"(II) the employer has eliminated family health coverage for all of its employees; and
"(iii) to withhold from such employer's compensation any such employee's share (if any) of such premiums for health coverage (except that the amount so withheld may not exceed the maximum amount permitted to be withheld under section 302(b) of the Consumer Credit Protection Act), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which the employer may withhold less than such employee's share of such premiums.

"(D) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

"(E) A law that requires an insurer, in any case in which a child has health coverage through an employer whose effective date is not later than the effective date of such disenrollment, to—
"(i) provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage,
"(ii) provide to such custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the parent, and
"(iii) make payment on claims submitted in accordance with clause (ii) directly to such custodial parent, the provider, or the State agency.

"(F) A law that permits the State agency under this title to garnish the wages, salary, or other employment income of, and requires withholding from amounts from State tax refunds to, any person whose child is enrolled in a MediGrant plan, each MediGrant plan shall—
"(1) provide that, as a condition of eligibility for medical assistance under the plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—
"(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under the plan, and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical assistance and administrative order) and to payment for medical care from any third party,
"(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A) if the person is a child born out of wedlock, and (ii) in obtaining support payments from another person, (A) for a child or (B) for another person unless (in either case) the individual is a pregnant woman or the individual is found to have good cause for refusing to cooperate as determined by the State, and
"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State.

"(G) to provide for entering into cooperative arrangements, including financial arrangements, with any appropriate agency of any State (including any entity established, designated, or regulated under section 454(3)) for the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3) and the State, and
"(H) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State and

"(1) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage,

"(2) provide for entering into cooperative arrangements, including financial arrangements, with any appropriate agency of any State (including any entity established, designated, or regulated under section 454(3)) for the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3) and the State, and
"(3) periodically reviewed and revised by such team after each assessment under paragraph (3).

"(3) RESIDENTS' ASSESSMENT.—

"(A) REQUIREMENT.—A nursing facility must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity, which assessment—
"(i) describes the resident's capability to perform daily living functions and significant impairments in functional capacity;
"(ii) uses an instrument which is specified by the Secretary under subsection (e)(5); and
"(iii) includes the condition of each resident's medical problems.

"(B) CERTIFICATION.—(1) IN GENERAL.—Each such assessment must be conducted or coordinated with the appropriate participation of health professionals by a registered nurse who signs and certifies the completion of such assessment.

"(2) residents who willfully and knowingly falsifies or otherwise influences a resident's assessment (or any portion of such an assessment) shall be subject to a civil money penalty of not more than $1,000 with respect to each assessment.

"(a) NURSING FACILITY DEFINED.—In this title, the term 'nursing facility' means an institution (or a distinct part of an institution) which—
"(1) is primarily engaged in providing to residents—
"(i) skilled nursing care and related services for residents who require medical or nursing care,
ill or mentally retarded. A mental condition of a resident who is mentally
disability authority, as applicable, promptly
testing and effort. In addition, a nursing facil-
be coordinated with any State-required
ments under this paragraph, the State may re-
knowing and willful certification of false assess-
``(4) PROVISION OF SERVICES AND ACTIVITIES .Ð
``(C) REQUIRED NURSING CARE; FACILITY WAIV-
``(I) to ensure the physical safety of the resi-
``(III) the State finds that, for any such peri-
``(II) the State determines that a waiver of the
``(II) except as provided in clause (i), must
``(I) the facility demonstrates to the satisfac-
``(ii) FREE FROM RESTRAINTS .ÐThe right to be
``(I) a license to practice by the State or the
``(A) to perform services as nurse aides, includ-
``(G) LICENSED HEALTH PROFESSIONAL DE-
``(i) who is a licensed health professional (as
defined in subparagraph (G) or a registered di-
et, (ii) who volunteers to provide such services
without monetary compensation, or
(iii) who is trained, whether compensated or not, to perform a task or function which
assists residents in their daily activities.
``(G) LICENSED HEALTH PROFESSIONAL DE-
``(I) the facility demonstrates to the satisfac-
``(II) except as provided in clause (ii), must
``(I) except as provided in clause (ii), must
``(II) U SE OF INDEPENDENT ASSESSORS .ÐIf a
``(III) the State finds that, for any such peri-
``(II) promptly after a significant change in the
residing condition of a resident who is mentally
ill or mentally retarded.
``(B) maintain clinical records on all residents,
``(E) COORDINATION.—Such assessments shall be
coordinated with any State-required
premiduction screening program to the maximum
extent practicable in order to avoid duplicative
testing and effort. In addition, a nursing facil-
ity shall notify the State mental health author-
ity or State mental retardation or developmental
disability authority, as applicable, promptly
after a significant change in the physical or
mental condition of a resident who is mentally
ill or mentally retarded.
``(A) IN GENERAL.—To the extent needed to
fulfill all plans of care described in paragraph
(2), a nursing facility must provide (or arrange for
the provision of):
``(i) a nursing and related services and special-
ized rehabilitative services;
``(ii) medically-related social services to attain
or maintain the highest practicable physical,
mental, and psychosocial well-being of resi-
dents;
``(iii) pharmaceutical services (including pro-
cedures that assure the accurate acquiring, re-
cieving, dispensing, and administering of all
drugs and biologicals) to meet the needs of resi-
dents;
``(iv) dietary services that assure that the
meals meet the daily nutritional and special die-
tary needs of residents;
``(v) an on-going program, directed by a quali-
fied professional, of activities designed to meet
the physical or psychological needs of residents;
``(vi) routine dental services (to the extent
available, a registered professional nurse or a
physician is obligated to respond immediately to
telephone calls from the facility).
``(IV) the nursing facility that is granted such
a waiver by a State notifies residents of the
facility (or, where appropriate, the guardians or
legal representatives of such residents) and
members of their immediate families of the waiv-
er.
A waiver under this clause shall be subject to
annual review and to the review of the Sec-
retary and subject to clause (iii) shall be accept-
bable by the Secretary for purposes of this title
to the same extent as is the State's certification of
the facility. In granting or renewing a waiver, a State may require the facility to use other quali-
fied, licensed personnel.
``(III) ASSUMPTION OF WAIVER AUTHORITY BY
SECRETARY.—If the Secretary determines that a
State has shown a clear pattern and practice of
willingness or inability to enforce substantial
efforts by facilities to meet the staffing require-
ments, the Secretary shall assume and exercise
the authority of the State to grant waivers.
``(S) REQUIRE WAIVER AIDES.—
``(i) who is an employee of the facility but who is work-
in collaboration with a physician;
``(ii) who is not an employee of the facility but who is work-
in collaboration with a physician;
``(iii) who is a registered professional nurse, licen-
sed practical nurse, or li-
censed or certified social worker.
``(6) PHYSICIAN SUPERVISION AND CLINICAL
RIGHTS.—A nursing facility must:
``(A) require that the health care of every resi-
dent be provided under the supervision of a
physician (or, at the option of a State, under
the supervision of a nurse practitioner, clinical
nurse specialist, or physician assistant who is
not an employee of the facility but who is work-
ning in collaboration with a physician);
``(B) provide for having a physician readily available
to furnish necessary medical care in case of
emergency; and
``(C) maintain clinical records on all residents,
which records include the following: (a) (des-
cribed in paragraph (2)) and the residents' as-
sessments (described in paragraph (3)).
``(7) REQUIREMENTS RELATING TO RESIDENTS'
RIGHTS.—
``(I) GENERAL RIGHTS.—
``(a) SPECIFIED RIGHTS.—A nursing facility
must protect and promote the rights of each resi-
dent, including each of the following:
``(1) FREE CHOICE.—The right to choose a per-
sonal attending physician, to be fully informed
about care and treatment, and to be fully
informed in advance of any changes in care or
treatment that may affect the resident's well-
being, and (except with respect to a resident ad-
judged incompetent) to participate in planning
further care and treatment.
``(2) FREE FROM RESTRAINTS.—The right to be
free from physical or mental abuse, corporal
punishment, involuntary seclusion, and any
physical or chemical restraints imposed for pur-
poses of discipline or convenience and not re-
quired to treat the resident's medical symptoms.
Restraints may only be imposed—
``(i) to ensure the physical safety of the resi-
dent or other residents, and
``(i) General requirements.—A nursing facility—
``(i) except as provided in clause (ii), must
provide 24-hour licensed nursing services which
are sufficient to meet the nursing needs of its
residents, and
``(ii) except as provided in clause (ii), must
use the services of a registered professional
nurse for at least 8 consecutive hours a day,
7 days a week.
``(III) WAIVER BY STATE.—To the extent that a
facility is unable to meet the requirements of
clause (i), an approved waiver of such requirements
with respect to the facility if—
``(I) the facility demonstrates to the satisfac-
tion of the State that the facility has been
unable, for reasons beyond its control (including
paying wages at the community prevailing rate for
nursing facilities), to recruit appropriate person-

eral must provide, for individuals used as a
nurse aide, services as nurse aides, including training for individuals provid-
ing nursing and nursing-related services to resi-
dents with cognitive impairments.
``(F) NURSE AIDE DEFINED.—In this para-
graph, the term 'nurse aide' means any individ-
ual providing nursing or nursing-related serv-
ices to residents in a nursing facility, but does
not include an individual—
``(1) who is a licensed health professional (as
defined in subparagraph (G) or a registered di-
et, or
``(2) who volunteers to provide such services
without monetary compensation, or
``(3) who is trained, whether compensated or not,
to perform a task or function which assists
residents in their daily activities.
``(G) LICENSED HEALTH PROFESSIONAL DE-
``(I) who is a licensed health professional (as
defined in subparagraph (G) or a registered di-
et, or
``(2) who volunteers to provide such services
without monetary compensation, or
``(3) who is trained, whether compensated or not,
to perform a task or function which assists
residents in their daily activities.
``(H) NURSE AIDE DEFINED.—In this para-
graph, the term 'nurse aide' means any individ-
ual providing nursing or nursing-related serv-
ices to residents in a nursing facility, but does
not include an individual—
``(1) who is a licensed health professional (as
defined in subparagraph (G) or a registered di-
et, or
``(2) who volunteers to provide such services
without monetary compensation, or
``(3) who is trained, whether compensated or not,
to perform a task or function which assists
residents in their daily activities.
``(I) GENERAL REQUIREMENTS.—A nursing fac-
ulty—

eral must provide, for individuals used as a
nurse aide, services as nurse aides, including training for individuals provid-
ing nursing and nursing-related services to resi-
dents with cognitive impairments.
used (except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained).

(iii) PRIVACY.—The right to privacy with regard to medical records, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.

(iv) CONFIDENTIALITY.—The right to confidentiality and clinical records. In a case where a resident is committed to a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility. The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (a) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

(v) ACCOMMODATION OF NEEDS.—The right to the accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

(ii) to receive notice before the room or roommate of the resident in the facility is changed unless a delay in changing the room or roommate while notice is given would endanger the resident or others.

(vi) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal, and in a manner consistent with the individual's needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

(ii) to receive notice before the room or roommate of the resident in the facility is changed unless a delay in changing the room or roommate while notice is given would endanger the resident or others.

(viii) PARTICIPATION IN RESIDENT AND FAMILY GROUPS.—The right of the resident to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

(ix) PARTICIPATION IN OTHER ACTIVITIES.—The right of the resident to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

(x) OTHER RIGHTS.—Any other right established by the Secretary.

Clause (ii) shall be construed as requiring the provision of a private room.

(B) NOTICE OF RIGHTS.—A nursing facility must—

(i) inform each resident, orally and in writing at the time of admission to the facility, of the resident's legal rights during the stay at the facility and of the requirements and procedures for establishing a legal determination under this title, including the right to request an assessment under section 1911(b)(1); and

(ii) make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights) including the notice (if any) of the State developed under subsection (e)(6); and

(iii) inform each resident who is entitled to medical assistance under this title—

(I) at the time of admission to the facility or, if later, at the time the resident becomes eligible for such assistance, of the items and services that are included in nursing facility services under the State Medicare plan and for which the resident may be charged, and of those other items and services that the facility offers and for which the resident may be charged and the amount of the charges for such items and services;

(II) of changes in the items and services described in subclause (I) and of changes in the charges imposed for items and services described in that subclause; and

(iv) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of related charges for such services, including any charges for services not covered under title XVIII or by the facility's basic per diem charge.

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (a) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

(c) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent beyond the court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

(d) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (including the written plan of care described in paragraph (2) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually, an independent consultant views the appropriateness of the drug plan of each resident receiving such drugs.

(e) TRANSFER AND DISCHARGE RIGHTS.—(A) In general.—A nursing facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless—

(I) the transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility;

(ii) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;

(iii) the safety of individuals in the facility is endangered;

(iv) the health of individuals in the facility would otherwise be endangered;

(v) the resident has failed, after reasonable and appropriate notice, to pay (or to have paid under this title or title XVIII on the resident's behalf) for a stay at the facility; or

(vi) the facility ceases to operate.

In each of clauses (i) through (iv), the basis for the transfer or discharge must be documented in the resident's clinical record. In the cases described in clauses (i) and (ii), the documentation must be made by the resident's primary physician. In the case described in clause (iv), the documentation must be made by a physician. For purposes of clause (v), in the case of a resident who becomes eligible for assistance under this title after admission to the facility, only charges which may be imposed under this title shall be considered to be allowable.

(B) PRE-TRANSFER AND PRE-DISCHARGE NOTICE.—(I) IN GENERAL.—Before effecting a transfer or discharge of a resident, a nursing facility must—

(I) notify the resident (and, if known, an immediate family member of the resident or legal representative of the transfer or discharge and the reasons therefor.

(ii) record the reasons in the resident's clinical record (including any documentation required under subparagraph (A)); and

(iii) include in the notice the items described in clause (ii).

(B) TIMING OF NOTICE.—The notice under clause (I) must be made at least 30 days in advance of the resident's transfer or discharge except—

(I) in a case described in clause (iii) or (iv) of subparagraph (A), and

(ii) in a case described in clause (ii) of subparagraph (A), where the resident's health improves sufficiently to allow a more immediate transfer or discharge;

(III) in a case described in clause (I) of subparagraph (A), where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs;

(IV) in a case where a resident has not resided in the facility for 30 days, or (V) where notification of a 30-day notice would be impossible or impracticable.

In the case of such exceptions, notice must be given as many days before the date of the transfer or discharge as is practicable.

(III) ITEMS INCLUDED IN NOTICE.—Each notice under clause (I) must include—

(I) notice of the resident's right to appeal the transfer or discharge under the State process established under subsection (e)(3); and

(II) the name, mailing address, and telephone number of the State long-term care ombudsman (established under title III or VII of the Older Americans Act of 1965);

(III) in the case of residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy system for developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act; and

(IV) in the case of mentally ill residents (as defined in subsection (e)(7)(G)(ii)), the mailing address and telephone number of the agency responsible for the protection and advocacy system for mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

(IV) EXCEPTION.—This subparagraph shall not apply to a voluntary transfer or discharge or a transfer or discharge necessitated by a medical emergency.

(C) ORIENTATION.—A nursing facility must provide reasonable preparation and orientation to residents to promote safe and orderly transfer or discharge from the facility.

(D) NOTICE ON BED-HOLD POLICY AND READMISSION.—(I) NOTICE BEFORE TRANSFER.—Before a resident of a nursing facility is transferred for hospitalization or therapeutic leave, a nursing facility must provide written information to the resident and an immediate family member or legal representative concerning—

(I) the provisions of the State Medicare plan under this title regarding the period (if any) or the length of which the resident will be permitted under the State Medicare plan to return and resume residence in the facility, and

(ii) the policies of the facility regarding such a period which policies must be consistent with clause (i).

(II) NOTICE UPON TRANSFER.—At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide written notice to the resident and an immediate family member or legal representative of the duration of any period described in clause (i).

(iii) PERMITTING RESIDENT TO RETURN.—A nursing facility must establish and follow a written policy under which a resident—

(I) who is eligible for medical assistance for nursing facility services under a State Medicare plan,

(II) who is transferred from the facility for hospitalization or therapeutic leave, and

(iii) whose hospitalization or therapeutic leave exceeds a period paid for under the State Medicare plan for the holding of a bed in the facility for the resident, will be permitted to be readmitted to the facility immediately upon the first availability of a bed in a room (not including a private room) in the facility for which the resident requires the services provided by the facility.

(III) ACCESS AND VISITATION RIGHTS.—A nursing facility must—

(I) permit immediate access to any resident by any representative of the Secretary, by any
representative of the State, by an ombudsman or agency described in subclause (I), (II), or (IV) of paragraph (2)(B)(iii), or by the resident's individual physician.

(B) LIMITED ACCESS Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relative or representative of the resident.

(C) LIMITED ACCESS Subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting the resident under the consent of the resident unless such access would endanger the health or safety of the resident or others in the facility.

(D) LIMITED ACCESS Subject to reasonable restrictions and subject to the resident's right to deny or withdraw consent at any time, by others in the facility; others in the facility; and

(E) permit representatives of the State ombudsman (described in paragraph (2)(B)(iii)), with the permission of the resident (or the resident's legal representative) and consistent with State law, to examine a resident's clinical records.

(4) EQUAL ACCESS TO QUALITY CARE.

(A) IN GENERAL. A nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services required under the State Medicaid plan for all individuals regardless of source of payment.

(B) CONSTRUCTION.

(i) LEAVING ANY CHARGES FOR NON-MEDIGRANT PATIENTS. Subparagraph (A) shall not be construed as prohibiting a nursing facility from charging any amount for services furnished, consistent with the notice in paragraph (3)(i) with respect to such charges.

(ii) NO ADDITIONAL SERVICES REQUIRED. Subparagraph (A) shall not be construed as requiring the offer of additional services on behalf of a resident than are otherwise provided under the State Medicaid plan.

(5) PROTECTION OF RESIDENT FUNDS.

(A) IN GENERAL. The nursing facility must provide such facility as follows:

(i) may not require residents to deposit their personal funds with the facility, and

(ii) upon the written authorization of the resident, must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

(B) FAILURE OF PERSONAL FUNDS. Upon written authorization of a resident under subparagraph (A)(i), the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

(i) DEPOSIT. The facility must deposit any amount of personal funds in excess of $250 with respect to a resident in an interest-bearing account (or accounts) that is separate from any of the facility's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the facility must maintain such funds in a non-interest-bearing account or petty cash fund.

(ii) ACCOUNTING AND RECORDS. The facility must maintain a full and complete accounting of such personal funds deposited with the facility, and the record of such amount maintained by the facility must be for the exclusive benefit of the resident.

(iii) ACCOUNTING AND RECORDS. The facility must maintain a full and complete accounting of such personal funds deposited with the facility, and the record of such amount maintained by the facility must be for the exclusive benefit of the resident.

(iv) ACCOUNTING AND RECORDS. The facility must maintain a full and complete accounting of such personal funds deposited with the facility, and the record of such amount maintained by the facility must be for the exclusive benefit of the resident.

(C) ASSESSMENT OF FINANCIAL SECURITY. The facility must pursue a surety bond, or other financial security which provides assurance satisfactory to the State, to assure the security of all personal funds of residents deposited with the facility.

(D) LIMITATION ON CHARGES TO PERSONAL FUNDS. A nursing facility may not impose charges against the personal funds of a resident for any item or service for which payment is made under this title or title XIX.

(E) LIMITATION ON CHARGES IN CASE OF MEDIGRANT ELIGIBLE RESIDENTS. A nursing facility may not impose charges for certain Medigrant-eligible individuals for nursing facility services covered by the State under its plan under this title, that exceed the payment amounts established by the State for such services.

(F) POSTING OF SURVEY RESULTS. A nursing facility must post in a place readily accessible to residents, and family members and legal representatives of residents, the results of a recent survey of the facility conducted under subsection (g).

(G) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.

(i) ADMINISTRATION. A nursing facility must be administered in a manner that ensures that it can meet the requirements of section 1126(b) of the facility.

(ii) the nursing facility must provide notice to the State agency responsible for the licensing of the facility, at the time of the change of the change and of the identity of each new person, company, or individual described in the respective clause.

(C) NURSING FACILITY ADMINISTRATOR. The administrator of a nursing facility, whether free-standing or hospital-based, must meet such standards and maintain such records as are established by the Secretary.

(2) LICENSING AND LIFE SAFETY CODE.

(A) LICENSING. A nursing facility must be licensed under applicable State and local law.

(B) LIFE SAFETY CODE. A nursing facility must meet such provisions of such code (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes; except that—

(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such code which rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of residents or personnel, and

(ii) the provisions of such code shall not apply in any State if the Secretary finds that in such State there exists a system for the enforcement of a fire and safety code, imposed by State law, which adequately protects residents of and personnel in nursing facilities.

(3) SANITARY AND INFECTION CONTROL AND PHYSICAL ENVIRONMENT. A nursing facility must—

(A) establish and maintain an infection control program that is a safe, sanitary, and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection, and

(B) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents, personnel, and the general public.

(4) MISCELLANEOUS.

(A) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS. A nursing facility, whether free-standing or hospital-based, must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional standards and principles which apply to professionals providing services in such a facility.

(B) OTHER. A nursing facility must meet such other requirements relating to the health and safety of residents or to the physical facilities thereof as the Secretary may find necessary.

(C) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS. A State with a Medigrant plan shall provide for the following:

(1) SPECIFICATION AND REVIEW OF NURSING AID TRAINING AND COMPETENCY EVALUATION PROGRAMS AND OF NURSE AIDE COMPETENCY EVALUATION PROGRAMS. The State must—

(A) specify such training and competency evaluation programs, and those competency evaluation programs approved under paragraph (1) in the State, or any such program described in subparagraph (A)(i) or in subparagraph (B), (C), or (D) of section 6901(b)(4) of the Omnibus Budget Reconciliation Act of 1989.

(B) PROVIDE FOR THE REVIEW AND REAPPROVAL OF SUCH PROGRAMS, AT A FREQUENCY AND USING A METHODOLOGY CONSISTENT WITH THE REQUIREMENTS ESTABLISHED UNDER SUBSECTION (F)(2)(A)(III).

(2) NURSE AIDE REGISTRY. The State shall establish and maintain a registry of all individuals who have satisfactorily completed a nurse aide training and competency evaluation program, or a nurse aide competency evaluation program, approved under paragraph (1) in the State, or any such program described in subsection (f)(1)(B) or in subparagraph (B), (C), or (D) of section 6901(b)(4) of the Omnibus Budget Reconciliation Act of 1989.

(A) INFORMATION IN REGISTRY. The registry under subparagraph (A) shall provide for the inclusion of specific documented findings by a State under subsection (g)(1)(C) of section 1126(b) in the facility, and

(i) the residents or persons, directors, agents, or managing employees (as defined in section 1126(b) of the facility),

(ii) the corporation, association, or other company responsible for the management of the facility,

(iii) the individual who is the administrator or director of nursing of the facility,

(iv) the individual employed by a facility, the nursing facility must provide notice to the State agency responsible for the licensing of the facility, at the time of the change of the change and of the identification of each new person, company, or individual described in the respective clause.

(C) NURSING FACILITY ADMINISTRATOR. The administrator of a nursing facility, whether free-standing or hospital-based, must meet such standards and maintain such records as are established by the Secretary.

(4) LICENSE FOR TRANSFERS AND DISCHARGES. The State must provide for a fair mechanism, meeting the guidelines established under subsection (f)(3), for hearing appeals on transfers and discharges of residents of such facilities.

(5) NURSING FACILITY ADMINISTRATOR STANDARDS. The State must implement and enforce the nursing facility administrator standards developed under subsection (f)(4) respecting the qualification of administrators of nursing facilities. Akron such standard, the Secretary shall apply to administrators of hospital-based facilities as well as administrators of free-standing facilities.

(6) NOTICE OF MEDIGRANT RIGHTS. Each State shall develop (and periodically update) a
written notice of the rights and obligations of residents of nursing facilities (and spouses of such residents) under this title.

(7) STATE REQUIREMENTS FOR PRE-ADMISSION SCREENING REVIEW.

(A) PRE-ADMISSION SCREENING.

(i) In general.—The State must have in effect a pre-admission screening program, including an assessment to determine mentally ill and mentally retarded individuals (as defined in subparagraph (B)) who are admitted to nursing facilities.

(B) DEFINITIONS.—In this paragraph:

(i) An individual is considered to be ‘mentally ill’ if the individual has a serious mental illness (as defined by the Secretary in consultation with the National Institute of Mental Health) and does not have a primary diagnosis of dementia (including Alzheimer’s disease or a related disorder) or a diagnosis (other than a primary diagnosis) of dementia and a primary diagnosis that is not a serious mental illness.

(ii) An individual is considered to be ‘mentally retarded’ if the individual is mentally retarded or a person with a related condition.

(8) RESPONSIBILITIES RELATING TO NURSING FACILITY PERSONNEL.

(A) GENERAL RESPONSIBILITY.—It is the duty and responsibility of a State with a Medicare plan under this title to assure that requirements which are applicable to the operation of nursing facilities under the plan, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of residents and to promote the effective and efficient use of public monies.

(B) REQUIREMENTS FOR NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND FOR NURSING FACILITY PERSONNEL METRICS.—For purposes of subsections (b)(5) and (e)(1)(A), the State shall establish:

(1) requirements for the approval of nurse aide training and competency evaluation programs, including requirements relating to (i) the areas to be covered in such a program (including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents’ rights) and content of the curriculum, (ii) minimum hours of initial and ongoing training and retraining, (iii) qualifications of instructors, and (iv) procedures for determination of competency;

(2) requirements for the approval of nurse aide competency evaluation programs, including requirement relating to the areas to be covered in such a program, including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents’ rights, and procedures for determination of competency;

(C) NURSE AIDE TRAINING AND COMPETENCY EVALUATION.

(1) Qualification of administrators.—For purposes of subsections (d)(1)(C) and (e)(4), the State shall develop standards to be applied in assuring the qualifications of administrators of nurse aide competency evaluation programs to apply to administrators of hospital-based facilities as well as administrators of freestanding facilities.

(2) Survey and certification process.—

(A) STATE AND FEDERAL RESPONSIBILITY.—(1) In general.—Under each State Medicaid program, the State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of nursing facilities with the requirements of such subsections.

(B) INVESTIGATION OF ALLEGATIONS OF RESIDENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF RESIDENT PROPERTY.—The State shall:

(1) based upon the protocol which the Secretary has developed, tested, and validated, as of the date of the enactment of this title, and

(ii) by individuals, of a survey team, who meet such minimum qualifications as the State establishes.

(4) CONSISTENCY OF SURVEYS.—Each State shall implement programs to measure and reduce inconsistency in the application of survey requirements among surveyors.

(E) SURVEY TEAMS.—

(i) In general.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse).

(II) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed respecting compliance with the requirements of subsections (b), (c), and (d), or who has a personal or familial financial interest in the facility being surveyed.

(3) VALIDATION SURVEYS.—

(A) In general.—The Secretary shall conduct onsite surveys of a representative sample of programs to measure compliance in the first 12 months of the date of surveys conducted under paragraphs (2) by the State, in a sufficient number to allow inference about the adequacies of such State surveys conducted under paragraph (2).

In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (2). If the State has determined that an individual nursing facility meets the requirements of subsections (b), (c), and (d), but the Secretary determines that the facility does not meet such requirements, the Secretary shall verify the facility’s noncompliance with such requirements is binding and supersedes that of the State survey.

(1) Surveys shall be conducted not later than 24 months after the date of the previous standard survey conducted under this subparagraph, except that in the case of a facility which has been subjected to an extended survey under paragraph (2), a standard survey shall be conducted not later than 12 months after the date of the preceding extended survey.
"(B) SCOPE.—With respect to each State, the Secretary shall conduct surveys under subparagraph (A) at least every third year with respect to at least 5 percent of the number of nursing facilities surveyed by the State in the year, but in no case less than 5 nursing facilities in the State.

(C) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has found substantial evidence of a pattern of noncompliance by a nursing facility with any of the requirements of subsections (b), (c), and (d), the Secretary may conduct a survey at any time and, on the basis of such survey, make determinations concerning the extent to which the nursing facility meets such requirements.

(4) INVESTIGATION OF COMPLAINTS AND MONITORING NURSING FACILITY COMPLIANCE.—Each State shall maintain procedures and adequate staff to—

(A) investigate complaints of violations of requirements by nursing facilities, and

(B) monitor, on-site, or on a regular, as needed basis, a nursing facility's compliance with the requirements of subsections (b), (c), and (d), if—

(i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;

(ii) the facility was previously found not to be in compliance with such requirements and, with interest, for each day in which the facility is or was out of compliance with a requirement of subsection (b), (c), or (d).

(III) The Secretary, the authority, in the case of an emergency, to close the facility, to transfer residents in that facility to other facilities, or both.

The State also shall specify criteria, as to when and how each of such remedies is to be used, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies.

(A) ALTERNATIVE REMEDIES.—A State may establish alternative remedies to the remedies described in subparagraph (A), if the State demonstrates to the Secretary's satisfaction that the alternative remedies are as effective in deterring noncompliance and correcting deficiencies as those described in such subparagraph.

(II) ACCURACY—If a nursing facility has not complied with any of the requirements of subsections (b), (c), and (d), within 3 months after the date the facility is found to be out of compliance with such requirements, the State may impose the remedy described in subparagraph (A)(i) for all individuals who are admitted to the facility after such date.

(D) REPEATED NONCOMPLIANCE.—In the case of a nursing facility which, on 3 consecutive standard surveys conducted under subsection (g)(2), has demonstrated a continued substandard quality of care, the State shall (regardless of what other remedies are provided)—

(i) impose the remedy described in subparagraph (A)(i), and

(ii) monitor the facility under section 1124, and may provide, in addition, for one or more of the remedies described in subparagraph (A)(ii) or (A)(iii), or terminate the facility's participation under the State Medicaid plan.

(II) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—In the case of a facility which, after the effective date of the finding, no longer meets a requirement of subsection (b), (c), or (d), the Secretary shall notify the State of such deficiency. If, after a reasonable period of time after such notification is given, the Secretary finds that the State has failed to carry out the requirements of paragraph (1)(A) or paragraph 1(B) (if appropriate) with respect to a nursing facility not in compliance with such requirements, or that the deficiency remains uncorrected—

(i) the Secretary shall require the facility to correct the deficiency involved.

(ii) if the Secretary finds that the deficiency involved immediately jeopardizes the health or safety of its residents, the Secretary shall, in consultation with the State, take action to remove the facility from the State MediciGrant plan and may provide, in addition, for one or more of the remedies described in subparagraph (A)(ii) or (A)(iii), or terminate the facility's participation under the State Medicaid plan.

(III) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the State or the Secretary has demonstrated to the satisfaction of the Secretary that the facility is in compliance with the requirements of subsections (b), (c), and (d), and that it will remain in compliance with such requirements.

(IV) SPECIAL RULES REGARDING PAYMENTS TO FACILITIES.—

(A) CONTINUATION OF PAYMENTS PENDING REMEDY.—The Secretary may, in consultation with the State, determine the amount and how such payments are to be applied, if the Secretary determines that the facility is in compliance with the requirements of subsections (b), (c), and (d), and that it will remain in compliance with such requirements.

(B) OTHER NURSING FACILITIES.—With respect to any other nursing facility in a State, if the Secretary finds that a nursing facility no longer meets a requirement of subsection (b), (c), or (d), the Secretary shall notify the State of such deficiency. If, after a reasonable period of time after such notification is given, the Secretary finds that the State has failed to carry out the requirements of paragraph (1)(A) or paragraph 1(B) (if appropriate) with respect to the deficiency involved, or that the deficiency remains uncorrected—

(i) the Secretary shall require the facility to correct the deficiency involved.

(ii) if the Secretary finds that the deficiency involved immediately jeopardizes the health or safety of its residents, the Secretary shall, in consultation with the State, take action to remove the facility and correct the deficiencies through the remedy specified in subparagraph (A)(ii), or (A)(iii), or terminate the facility's participation under the State Medicaid plan.

The Secretary shall specify criteria, as to when and how each of such remedies is to be used, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies.

(IV) SPECIFIED REMEDIES.—The remedies specified in this subparagraph shall be as follows:

(A) LISTING.—Except as provided in subparagraph (B), each State shall establish by law (whether state or regulation) at least the following remedies:

(i) Denial of payment under the State Medicaid plan with respect to any individual admitted to the nursing facility involved after such notice to the public and to the facility as may be provided for by the State.

(ii) A civil money penalty assessed and collected, with interest, for each day in which the facility is in compliance with a requirement of subsection (b), (c), or (d).

(iii) The Secretary, if the Secretary finds that the facility has not complied with any of the requirements of subsections (b), (c), and (d), the Secretary shall notify the State of such deficiency. If, after a reasonable period of time after such notification is given, the Secretary finds that the State has failed to carry out the requirements of paragraph (1)(A) or paragraph 1(B) (if appropriate) with respect to the deficiency involved, or that the deficiency remains uncorrected—

(i) the Secretary shall require the facility to correct the deficiency involved.

(ii) if the Secretary finds that the deficiency involved immediately jeopardizes the health or safety of its residents, the Secretary shall, in consultation with the State, take action to remove the facility and correct the deficiencies through the remedy specified in subparagraph (A)(ii), or (A)(iii), or terminate the facility's participation under the State Medicaid plan and may provide, in addition, for one or more of the remedies described in subparagraph (A)(ii) or (A)(iii), or terminate the facility's participation under the State Medicaid plan.

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Secretary (as the case may be) finds that the facility is in substantial compliance with all the requirements of subsections (b), (c), and (d).

(5) CONSTRUCTION.—The remedies provided under this section in addition to those otherwise available under Federal or State law and shall not be construed as limiting such other remedies, including any remedy available to an individual at common law. The provisions of this subsection shall apply to a facility (or portion thereof) notwithstanding that the facility (or portion thereof) also is a skilled nursing facility as defined under section 1819 of title XVIII to the extent that such facility is accredited by an entity pursuant to subsection (i)(2).

(6) SHARING OF INFORMATION.—Notwithstanding any other provision of law, all information concerning nursing facilities required by this section to be filed with the Secretary or a State agency shall be readily available to such State agency or to Federal or State employees for purposes consistent with the effective administration of programs established under this title and title XVIII, including investigations by State Medicaid fraud control units.

(ii) CONSTRUCTION.—(1) MEDICARE REQUIREMENTS.—Where requirements or obligations under this section are identical to those provided under section 1819 of this Act, the fulfillment of those requirements or obligations under section 1819 shall be considered to be the fulfillment of the corresponding requirements or obligations under this section.

(2) EFFECT OF ACCREDITATION.—(A) The option of a State, or the Secretary, as appropriate, if a nursing facility in the State is accredited by a national accrediting entity meeting such standards as the Secretary or the Secretary may impose, such facility shall be deemed to have met the requirements of this Act, the Act, and the State and the Secretary shall be deemed to have met the survey and certification requirements under section 1867.

(3) REQUIREMENT FOR ACCREDITING ENTITY.—A State or the Secretary, as appropriate, may not find that an accrediting entity meets standards under subparagraph (A) unless such entity applies standards for accreditation for facilities that meet or exceed the requirements of this section.

SEC. 2138. OTHER PROVISIONS PROMOTING PROGRAM INTEGRITY.

(a) Public Access to Survey Results.—Each MediGrant plan shall provide that upon completion of any health care facility or organization by a State agency to carry out the plan, the agency shall make public in readily available form and place the pertinent findings of the survey relating to the compliance of the facility or organization with requirements of law.

(b) Record Keeping.—Each MediGrant plan shall provide for agreements with persons or institutions providing services under the plan under which the person or institution agrees—

(1) to keep such records, including ledgers, books, and original evidence of costs, as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the plan;

(2) to furnish the State agency with such information regarding any payments claimed by such person or institution for providing services under the plan, as the State agency may from time to time request.

(c) QUALITY ASSURANCE.—Each MediGrant plan shall provide assurance to the Secretary and each of the appropriate authorities that each State shall submit to the Secretary a MediGrant plan that meets the applicable requirements of this title.

(b) APPROVAL.—Except as the Secretary may provide under section 2154, a MediGrant plan submitted under subsection (a) shall be approved for purposes of this title, and shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than the first calendar quarter that begins not less than 60 days after the date the plan is submitted.

SEC. 2152. SUBMITTAL AND APPROVAL OF PLAN AMENDMENTS.

(a) SUBMITTAL OF AMENDMENTS.—A State may amend, in whole or in part, its MediGrant plan at any time through transmittal of a plan amendment under this section.

(b) APPROVAL.—The Secretary may provide under section 2154, an amendment to a MediGrant plan submitted under subsection (a) shall be approved for purposes of this title, and shall be effective as provided in subsection (c).

(c) EFFECTIVE DATES FOR AMENDMENTS.—(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an amendment to a MediGrant plan shall take effect on one or more effective dates specified in the amendment.

(2) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—Except as provided in paragraph (4), any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.

(3) TIMELY TRANSMISSION.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than 60 days unless the amendment has been transmitted to the Secretary by the end of such period.

(4) OTHER AMENDMENTS.—Subject to paragraph (4), any plan amendment that is not described in paragraph (2) becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of a period on which it becomes effective) unless the amendment has been transmitted to the Secretary by the end of such period.

(5) DETERMINATIONS OF SUBSTANTIAL NONCOMPLIANCE.—In determining whether a plan or amendment, insofar as it is in substantial violation of such a requirement, that the plan or amendment, insofar as it is in substantial violation of such a requirement, that the plan or amendment is in substantial violation of such a requirement, or inoperable, or, in any event, shall not be effective, except as provided in subsection (b).

(6) JUSTIFICATION OF ANY INCONSISTENCIES IN DETERMINATIONS.—If the Secretary makes a determination under this section that is, in whole or in part, inconsistent with any previous determination issued by the Secretary under title XXI, the Secretary shall include in the determination a detailed explanation and justification of any such differences.

(7) SUBSTANTIAL VIOLATION DEFINED.—For purposes of this title, a MediGrant plan or amendment (or such plan or amendment) is considered to substantially violate a requirement of this title if a provision of the plan or amendment (or an amendment to the plan or amendment) is not in substantial compliance with the provisions, requirements, or other applicable requirements of this title, and the Secretary finds that the plan or amendment (or such plan or amendment) is not in substantial compliance with the requirements of this title.
omission from the plan or amendment) or the administration of the plan—

"(A) is material and substantial in nature and effect, and

"(B) is inconsistent with an express requirement of this title.

A failure to meet a strategic objective or performance goal (as described in section 2011) shall not be considered to substantially violate a requirement of this title.

(c) STATE RESPONSE TO ORDERS.---(1) GENERAL.---(A) In general.—Insofar as an order under subsection (b)(2) relates to a substantial violation by a MediGrant plan or plan amendment, a State may respond by submitting a corrective action plan to the Secretary, as proposed to be corrected in the plan, or amendment to substantially comply with the requirements of this part.

"(B) REVIEW OF REVISION.—In the case of submission of such a revision, the Secretary shall promptly review the submission and shall withhold any action on the order during the period of such review.

"(C) SECRETARIAL RESPONSE.—The revision shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the revision, that the MediGrant plan or amendment, as proposed to be revised, still substantially violates a requirement of this title. In such case the Secretary may respond by seeking reconsideration of this title or an administrative hearing, pursuant to subsection (d)(1), or

"(D) REVIEW RETROACTIVE.—If the revision provides for substantial compliance, the revision may be treated, at the option of the State, as being effective either as of the effective date of the provision to which it relates or such later date as the State and Secretary may agree.

"(2) DETERMINATION THROUGH ADMINISTRATIVE HEARING.---A State may respond to an order under subsection (b)(2) by filing a request with the Secretary for—

"(A) a reconsideration of the determination, pursuant to subsection (d)(1), or

"(B) a review of the determination through an administrative hearing, pursuant to subsection (d)(2).

In such case, the order shall not take effect before the completion of the reconsideration or hearing.

(d) STATE RESPONSE BY CORRECTIVE ACTION PLAN.—

"(1) GENERAL.---In the case of an order described in section 2101, the Secretary shall withhold any plan amendment submitted, a State may respond by submitting a corrective action plan to the Secretary, as proposed to be corrected in the plan, or amendment to substantially comply with the requirements of this part.

"(2) DETERMINATION THROUGH ADMINISTRATIVE HEARING.---Within 30 days after the date of receipt of a request under subsection (b)(2), an administrative law judge shall determine for the purpose of reviewing the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The administrative law judge shall affirm, modify, or reverse the original determination within 60 days after the hearing.

(e) JUDICIAL REVIEW.---(1) IN GENERAL.---In the case of a State which is dissatisfied with a final determination made by the Secretary under subsection (d)(1) or a final determination of an administrative law judge under subsection (d)(2), may, within 60 days after it is made, file with the United States court of appeals for the circuit in which the State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary and, in the case of a determination under subsection (d)(2), to the administrative law judge involved. The Secretary (or judge involved) thereupon shall file in the court the record of the proceedings on which the final determination was based, as provided in section 2112 of title 28, United States Code. Only the Secretary, in accordance with this title, may compel a State under Federal law to comply with the provisions of this title or a MediGrant plan, or otherwise enforce a provision of this title against a State, and no action may be filed under Federal law against a State in relation to the State's compliance, or failure to comply with the requirements of this title.

"(2) STANDARD FOR REVIEW.—The findings of fact by the administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may modify a previous determination, and shall certify to the court that the court may affirm, modify, or reverse the final determination which was the basis for the order, as provided under this subsection.

(f) WITHHOLDING OF FUNDS.—(1) GENERAL.---Any order under this section relating to the withholding of funds shall not take effect earlier than the effective date of the order and shall only relate to the portions of a MediGrant plan or administration thereof which substantially violate a requirement of this title.

"(2) SUSPENSION OF WITHHOLDING.—The Secretary may suspend withholding of funds under paragraph (1) during the period reconsideration or administrative and judicial review is pending under subsection (d) or (e).

"(3) RESTORATION OF FUNDS.—Any funds withheld under this subsection under an order shall be immediately restored to a State—

"(A) to the extent and at the time the order is—

"(i) modified or withdrawn by the Secretary upon reconsideration,

"(ii) modified or reversed by an administrative law judge, or

"(iii) set aside (in whole or in part) by an appellate court; or

"(B) when the Secretary determines that the deficiency which was the basis for the order is corrected; or

"(C) when the Secretary determines that violation which was the basis for the order is resolved or the amendment which was the basis for the order is withdrawn; or

"(D) at any time upon the initiative of the Secretary.

(g) INDIVIDUAL COMPLAINT PROCESS.—The Secretary shall provide for a process under which an individual may notify the Secretary concerning a State's failure to provide medical assistance as required under the State MediGrant plan or otherwise comply with the requirements of this title. The Secretary shall take such steps as necessary to ensure that the Secretary finds that there is a pattern of complaints with respect to a State or that a particular failure or finding of noncompliance is egregious in relation to the State's compliance, or failure to comply with the requirements of this title.

(h) EOJECUTIVE DIRECTOR.—The Secretary shall have the authority to engage in informal negotiations with the States in carrying out this title, and to provide for a process under which the Secretary may suspend withholding of funds under this title for the purpose of resolving disputes with respect to a State's substantial compliance with the requirements of this title.

(i) JUDICIAL REVIEW.---(1) GENERAL.—Any order under this section shall be reviewable by an administrative law judge, or any other person designated by the Secretary, and shall be reviewable by the United States court of appeals for the circuit in which the State is located.

"(2) STANDARD FOR REVIEW.—The findings of fact by the administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may modify a previous determination, and shall certify to the court that the court may affirm, modify, or reverse the final determination which was the basis for the order, as provided under this subsection.

"(3) JURISDICTION OF APPELLATE COURT.—The appeals court shall have jurisdiction to affirm the action of the Secretary or judge of a final determination made by the Secretary under subsection (d) or (e) or a final determination made by an administrative law judge under subsection (d). An appeal taken under this section shall be heard, and decided with a final determination made by the Secretary under subsection (d) or (e) or a final determination made by an administrative law judge under subsection (d), as provided in section 2112 of title 28, United States Code.

"(G) AGENCY RULEMAKING FOR CHANGES IN SECRETARIAL ADMINISTRATION.—The Secretary shall carry out the administration of the program under this title only through a prospective, formal rulemaking process, including issuing notices of proposed rulemaking, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.

"(H) FUNDING.—(1) IN GENERAL.—Any order under this section relating to the withholding of funds shall be effectuated not earlier than the effective date of the order and shall only relate to the portions of a MediGrant plan or administration thereof which substantially violate a requirement of this title.

"(2) SUSPENSION OF WITHHOLDING.—The Secretary may suspend withholding of funds under paragraph (1) during the period reconsideration or administrative and judicial review is pending under subsection (d) or (e).

"(3) RESTORATION OF FUNDS.—Any funds withheld under this subsection under an order shall be immediately restored to a State—

"(A) to the extent and at the time the order is—

"(i) modified or withdrawn by the Secretary upon reconsideration,

"(ii) modified or reversed by an administrative law judge, or

"(iii) set aside (in whole or in part) by an appellate court; or

"(B) when the Secretary determines that the deficiency which was the basis for the order is corrected; or

"(C) when the Secretary determines that violation which was the basis for the order is resolved or the amendment which was the basis for the order is withdrawn; or

"(D) at any time upon the initiative of the Secretary.

"(I) INDIVIDUAL COMPLAINT PROCESS.—The Secretary shall provide for a process under which an individual may notify the Secretary concerning a State's failure to provide medical assistance as required under the State MediGrant plan or otherwise comply with the requirements of this title. The Secretary shall take such steps as necessary to ensure that the Secretary finds that there is a pattern of complaints with respect to a State or that a particular failure or finding of noncompliance is egregious in relation to the State's compliance, or failure to comply with the requirements of this title.

"(J) EOJECUTIVE DIRECTOR.—The Secretary shall have the authority to engage in informal negotiations with the States in carrying out this title, and to provide for a process under which the Secretary may suspend withholding of funds under this title for the purpose of resolving disputes with respect to a State's substantial compliance with the requirements of this title.
income individuals as defined in subsection (b) as specified under the Medigrant plan:
(1) Inpatient hospital services.
(2) Outpatient hospital services.
(3) Physician services.
(4) Surgical services.
(5) Clinic services and other ambulatory health care services.
(6) Nursing facility services.
(7) Intermediate care facility services for the mentally retarded.
(8) Prosthetics and other devices.
(9) Vision care and other medically-related services.
(10) Laboratory and radiological services.
(11) Services and supplies.
(12) Inpatient mental health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services in the case of a child.
(13) Outpatient mental health services, including services furnished in a State-operated mental hospital and including community-based services in the case of a child.
(14) Durable medical equipment and other medically-related or remedial devices (such as prosthetics, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).
(15) Referral services.
(16) Home health, community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).
(17) Home health agency services.
(18) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nurse, nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.
(19) Abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.
(20) Dental services.
(21) Inpatient substance abuse treatment services and residential substance abuse treatment services.
(22) Outpatient substance abuse treatment services.
(23) Case management services.
(24) Care coordination services.
(25) Physical therapy, occupational therapy, and speech services for individuals with speech, hearing, and language disorders.
(26) Hospice care.
(27) Any other medical, diagnostic, screening, preventive, remedial, therapeutically or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—
(A) furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law.
(B) performed under the general supervision or at the direction of a physician, or
(C) furnished by a health care facility that is operated by a State or local government and is licensed under State law and operating within the scope of the license.
(28) Premiums for private health care insurance coverage, including private long-term care insurance coverage.
(29) Medical transportation.
(30) Medicare cost-sharing (as defined in subsection (c)).
(31) Each service (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.
(32) Any other health care services or items specified by the Secretary and not excluded under this section.
(b) Eligible Low-Income Individual—
(1) In General.—The term ‘eligible low-income individual’ means an individual—
(A) who has been determined eligible by the State for medical assistance under the Medigrant plan and is not an inmate of a public institution (except as a patient in a State psychiatric hospital) and
(B) whose family income (as determined under the plan) does not exceed a percentage (specified in the Medigrant plan and not to exceed 275 percent of the poverty line for a family of the size involved).
(2) Amount of Income.—In determining the amount of income under paragraph (1)(B), a State may exclude costs incurred for medical care or other types of remedial care recognized by the State.
(c) Medicare Cost-Sharing.—For purposes of this title, the term ‘medicare cost-sharing’ means any of the following:
(1) (A) Premiums under section 1839.
(B) Premiums under 1838 or 1838A.
(C) Coinsurance under title XVIII (including coinsurance described in section 1813).
(D) Deductibles established under title XVIII (including those in sections 1813 and 1833(b)).
(2) The difference between the amount that is paid under section 1833(a) and the amount that would have been paid if reference to ‘80 percent’ therein were deemed a reference to ‘100 percent’.
(3) Premiums for enrollment of an individual with an eligible organization under section 1876 or with a Medicare-plus organization under part C of title XVIII.
(d) Additional Definitions.—For purposes of this title:
(1) Child.—The term ‘child’ means an individual under 19 years of age.
(2) Elderly Individual.—The term ‘elderly individual’ means an individual who has attained retirement age, as defined under section 216(l)(1).
(3) Poverty Line Defined.—The term ‘poverty line’ has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.
(4) Pregnant Woman.—The term ‘pregnant woman’ includes a woman during the 60-day period beginning on the last day of the pregnancy.
SEC. 2172. TREATMENT OF TERRITORIES.
Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program for a State other than the 50 States and the District of Columbia, other than a waiver of—
(1) the applicable Federal medical assistance percentage,
(2) the limitation on total payments in a fiscal year to the amount of the allotment under section 221(c), or
(3) the requirement that payment may be made for medical assistance only with respect to amounts expended for care and services described in section 2171(a) and medically-related services (as defined in section 2112(e)(2)).
SEC. 2173. DESCRIPTION OF TREATMENT OF INDIAN HEALTH SERVICE FACILITIES.
In the case of a State in which one or more facilities of the Indian Health Service are located under title XVII, the Medigrant plan shall include a description of—
(1) what provision (if any) has been made for payment for items and services furnished by such facility;
(2) the manner in which medical assistance for low-income eligible individuals who are Indianans will be provided, as determined by the State in consultation with the appropriate Indian tribes and tribal organizations.
SEC. 2174. APPLICATION OF CERTAIN GENERAL PROVISIONS.
The following sections in part A of title X shall apply to States under this title in the same manner as they applied to a State under title X:
(1) Section 1101(a)(1) (relating to definition of State).
(2) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with the provisions of part C.
(3) Section 1124 (relating to disclosure of ownership and related information).
(4) Section 1126 (relating to disclosure of information about certain convicted individuals).
(5) Section 1126(b) (relating to criminal penalties for certain additional charges).
(6) Section 1132 (relating to periods within which claims must be filed).
SEC. 2175. MEDIGRANT MASTER DRUG REBATE AGREEMENTS.
(a) Requirement for Manufacturer to Enter into Agreement.
(1) In General.—Pursuant to section 2123(f), in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs purchased by a covered entity, the manufacturer shall enter into and have in effect a MediGrant master rebate agreement described in subsection (b) with the Secretary on behalf of States electing to participate therein.
(2) Coverage of Drugs Not Covered under Rebate Agreements.—Nothing in this section shall be construed to prohibit a State in its discretion from providing coverage under its MediGrant plan of a covered outpatient drug for which no rebate agreement is in effect under this section.
(b) Effect on Existing Agreements.—If a State has a rebate agreement in effect with a manufacturer on the date of the enactment of this section which provides for a minimum aggregate rebate equal to or greater than the minimum aggregate rebate which would otherwise be paid under the MediGrant master agreement under this section, at the option of the State—
(A) such agreement shall be considered to meet the requirements of the MediGrant master rebate agreement, and
(B) the State shall be considered to have elected to participate in the MediGrant master rebate agreement.
(c) Limitation on Prices of Drugs Purchased by Covered Entities.
(1) Agreement with Secretary.—A manufacturer meets the requirements of this paragraph if the manufacturer enters into an agreement with the Secretary that meets the requirements of section 3408 of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992.
(2) Covered Entity Defined.—In this subsection, the term ‘covered entity’ means an entity described in section 3408(a)(4) of the Public Health Service Act provided that—
(A) an entity that is licensed by the State to purchase and take possession of covered outpatient drugs and furnishes the drugs to patients at a cost no greater than acquisition plus such discounts as may be required by the State under a State pharmaceutical assistance program, and
(ii) such entity is certified pursuant to section 3408(a)(7) of such Act.
(c) Establishment of Alternative Mechanism to Ensure Against Duplicate Discounts or Rebates.—If the Secretary does not establish a mechanism under subsection (a)(iv) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:
(1) Covered entities shall inform the single State agency under this title when it is seeking reimbursement from the Medicaid plan for...
medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B (a) of such Act.

(ii) Each such single State agency shall provide a creditor to cover its qualified renewal or otherwise approved by this subparagraph, for the covered outpatient drug which is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment under subparagraph (b) with respect to such a drug.

(i) E F F E C T O F S U B S E Q U E N T A M E N D M E N T S .—In determining whether an agreement under subparagraph (A) is subject to an agreement under section 340B of the Public Health Service Act, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

(ii) D E T E R M I N A T I O N O F C O M P L I A N C E .—A manufacturer shall not be considered to be in violation of this section if the manufacturer fails to report to the Secretary information required under subparagraph (A) or (B) of this subsection (a), if the manufacturer provides to a State information required under paragraph (1) of this subsection (b) in a form consistent with a standard reporting format established by the Secretary.

(iii) A M O U N T O F R E B A T E .—(A) T H E S E C R E T A R Y .—The Secretary shall have the authority to determine the amount of rebate due under an agreement with a manufacturer that is subject to the MediGrant master rebate agreement.

(b) TERMS OF REBATE AGREEMENT.—

(a) In general.—Each State participating in the MediGrant master rebate agreement shall report to each manufacturer not later than 30 days after the last day of each rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed during the rebate period, and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength paid for under the State MediGrant plan, and shall promptly transmit a copy of such report to the Secretary.

(b) A U D I T S .—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to information provided (or required to be provided) under subparagraph (A) shall be made under the plan for the period, and shall promptly transmit a copy of such report to the Secretary.

(c) S T A T E P R O V I S I O N O F I N F O R M A T I O N .—(A) S T A T E R E S P O N S I B I L I T Y .—Each State participating in the MediGrant master rebate agreement shall report to each manufacturer not later than 30 days after the last day of each rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed during the rebate period, in a form consistent with a standard reporting format established by the Secretary.

(d) C O N F I D E N T I A L I T Y O F I N F O R M A T I O N .—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph or under an agreement with the Secretary of Veterans Affairs described in section 2123f of this title shall be eligible for payment under the MediGrant plan for the period, and shall promptly transmit a copy of such report to the Secretary.

(e) A N N U A L L Y R E F O R M A T I O N .—(A) N E C E S S A R Y T O C A R R Y O U T T H I S S E C T I O N .—(i) To permit the Comptroller General to review the information provided, and (ii) to permit the Director of the Congressional Budget Office to review the information provided.

(f) L E N G T H O F A G R E E M E N T .—(A) I N G E N E R A L .—The MediGrant master rebate agreement under this section shall be for a term of not less than one year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

(g) T E R M I N A T I O N .—(i) B Y T H E S E C R E T A R Y .—The Secretary may provide for termination of the MediGrant master rebate agreement with respect to a drug for violations of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the notice of such termination. The Secretary may provide for payment to a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination. Failure of a State to provide notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.

(ii) B Y A M A N U F A C T U R E R .—A manufacturer may terminate its participation in the MediGrant master rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

(h) E F F E C T I V E N E S S O F T E R M I N A T I O N .—Any termination under this subparagraph shall not affect rebates due under such agreement before the effective date of its termination.

(i) N O T I C E T O S T A T E S .—In the case of a termination under this subparagraph, the Secretary shall notify the States not less than 30 days before the effective date of such termination.

(j) A P P L I C A T I O N T O T E R M I N A T I O N S O F O T H E R A G R E E M E N T S .—The provisions of this subparagraph shall apply to the terminations of master agreements described in section 8126(a) of title 38, United States Code.

(k) D E L A Y B E F O R E R E N T E R Y .—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary determines that an earlier reinstatement of such agreement is in the public interest.

(l) S E T T L E M E N T O F D I S P U T E S .—(A) S E C R E T A R Y .—The Secretary shall have the authority to resolve disputes among manufacturers regarding the amounts of rebates owed under this section and section 1128A of title 38, United States Code.

(m) A M O U N T O F R E B A T E .—(A) S T A T E .—Each State with respect to covered outpatient drugs paid for under the State's MediGrant plan, shall have authority, independent of the Secretary, to determine the amount of rebate due under an agreement with a manufacturer with respect to covered outpatient drugs paid for under such agreement.

(n) A P P L I C A T I O N T O T E R M I N A T I O N S O F O T H E R A G R E E M E N T S .—The provisions of this subparagraph shall apply to the terminations of master agreements described in section 8126(a) of title 38, United States Code.

(o) D E T E R M I N A T I O N O F A M O U N T O F R E B A T E .—(A) I N G E N E R A L .—Each State participating in the MediGrant master rebate agreement shall report to each manufacturer not later than 30 days after the last day of each rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed during the rebate period, in a form consistent with a standard reporting format established by the Secretary.

(p) C O M P L I A N C E W I T H T E R M I N A T I O N .—A State participating in the MediGrant master rebate agreement shall report to each manufacturer not later than 30 days after the last day of each rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed during the rebate period.
multiple source drug of a manufacturer, the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, or governmental entity within the United States, excluding—

(1) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Defense, the Public Health Service, or a covered entity described in section 368b(a)(4) of the Public Health Service Act;

(2) any prices charged under the Federal Supply Schedule of the General Services Administration;

(3) any prices used under a State pharmaceutical assistance program, and

(4) any discount prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

(3) SPECIAL RULES.—The term ‘best price’—

(1) shall be inclusive of cash discounts, free goods that are contingent on any purchase requirement, volume discounts, and rebates (other than rebates under this section);

(2) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product package;

(3) shall not include any amount paid to the extent that the amount is based upon accounts prices that are merely nominal, and

(4) shall exclude rebates paid under this section or any other rebate or discount pursuant to an agreement with a State participating in the MediGrant master rebate agreement.

(2) AddIOnAL REBATE FOR SINGLE SOURCE AND MULTIPLE SOURCE DRUGS.—

(A) IN GENERAL.—The amount of the rebate specified in this subsection with respect to a State participating in the MediGrant master rebate agreement for a rebate period, with respect to each dosage form and strength of a single source drug or innovator multiple source drug, shall be increased by an amount equal to the product of—

(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the MediGrant plan for the rebate period; and

(ii) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

(2) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990 (without regard to whether or not the drug has been sold or transferred to an entity, including a division or subsidiary thereof (whether or not the division or subsidiary is joint, after the last quarter of such quarter), increased by the percentage by which the Consumer Price Index for All Urban Consumers (United States city average) for the month before the month in which the rebate period begins exceeds such index for September 1990.

(3) REBATE FOR OTHER DRUGS.—

(A) Rebate.—The amount of the rebate paid to a State participating in the MediGrant master rebate agreement for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

(i) the applicable percentage (as described in subparagraph (A)(ii) of this paragraph); and

(ii) the average manufacturer price for the dosage form and strength for the rebate period, and

(3) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the MediGrant plan for the rebate period.

(4) Rebate for other DRUGS.—

(A) Rebate.—The amount of the rebate specified under subsection (a) (other than any drug excluded from coverage or otherwise restricted under paragraph (2)) shall be excluded from coverage with respect to a specific disease or condition for an identified population (if any, only if, based on the drug's labeling or, in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted intervention, or based on information from the appropriate compendia described in subsection (i)(5)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in any medically accepted indication (as defined in some of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion).

(B) The State Medi Grant plan permits coverage of a drug excluded from the formulary (other than any drug otherwise restricted under paragraph (2)) pursuant to a prior authorization program that is consistent with paragraph (5).

(C) The formulary may include such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

(4) REQUIREMENTS FOR FORMULARIES.—A State participating in the MediGrant master rebate agreement may establish a formulary for such benefits that meets the following requirements:

(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State.

(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into an agreement with the Secretary to participate under subsection (a) (other than any drug excluded from coverage or otherwise restricted under paragraph (2)).

(C) The covered outpatient drug may be excluded with respect to the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling or, in the case of a drug that the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted intervention, or based on information from the appropriate compendia described in subsection (i)(5)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in any medically accepted indication (as defined in some of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion).

(5) SUPPLEMENTAL REBATES PROHIBITED.—No rebates shall be required to be paid by manufacturers with respect to any drug furnished to any covered entity that complies with the requirements of paragraph (5); and

(D) The State Medi Grant plan permits coverage of a drug excluded from the formulary (other than any drug otherwise restricted under paragraph (2)) pursuant to a prior authorization program that is consistent with paragraph (5).

(5) Other Permissible Restrictions.—A State participating in the MediGrant master rebate agreement may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to discourage waste, and may add address instances of fraud or abuse by individuals in any manner authorized under this Act.

(6) Drug Use Review.—

(A) IN GENERAL.—A State participating in the MediGrant master rebate agreement may provide for a drug use review program to educate physicians and pharmacists to identify and reduce the frequency of patterns of gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or classes of drugs, as well as potential and actual severe adverse reactions to drugs.

(B) Application of State Standards.—Except as provided in subparagraph (B), a State participating in the MediGrant master rebate agreement may establish and operate the program under such standards as it may establish.
"(f) ELECTRONIC CLAIMS MANAGEMENT.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage, and receive a plan from, as its principal means of processing claims for covered outpatient drugs under its MediGrant plan, a point-of-sale electronic claims management system, for performing real-time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for reimbursement.

(g) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall transmit to the Committee on Finance of the Senate, and the Committee on Commerce of the House of Representatives, a report on the operation of this section in the preceding fiscal year.

(2) DETAILS.—Each report shall include information on—

(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs;

(B) the total value of rebates received and number of manufacturers providing such rebates;

(C) the effect of inflation on the value of rebates required under this section;

(D) trends in prices paid under this title for covered outpatient drugs;

(E) Federal and State administrative costs associated with compliance with the provisions of this title.

(3) LIMITATION.—The term ‘MediGrant master rebate agreement’ under this section shall not apply with respect to covered outpatient drugs except for—

(A) a capitatively health care organization (as defined in section 2114(c)(1)), or

(B) a hospital or nursing facility that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital’s or facility’s purchasing costs for covered outpatient drugs.

(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.

(ii) Definitions.—In the section—

(I) MANUFACTURER’S PRICE.—The term ‘average manufacturer price’ means, with respect to a covered outpatient drug of a manufacturer for a rebate period, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts.

(II) REBATE PERIOD.—Subject to the exceptions in paragraph (3), the term ‘covered outpatient drug’ means—

(A) drugs which are treated as prescribed drugs for purposes of section 2171(a)(8), a drug which may be dispensed without a prescription (commonly referred to as an ‘over-the-counter drug’), if the drug is prescribed by a physician (or other person authorized to prescribe under State law) for a medical indication which is not a medically accepted indication.

(III) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term ‘covered outpatient drug’ means—

(A) a drug which is approved as a prescription drug under section 505 of the Federal Food, Drug, and Cosmetic Act; or

(B) a drug which is commercialized or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 318(b)(1)(B) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has been the subject of a final determination by the Secretary that it is a ‘new drug’ within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act or an action brought by the Secretary under sections 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

(iii) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined that the drug is less than the hospital’s or facility’s purchasing costs for purposes of section 2171(a)(8), or

(III) LIMITING DEFINITION.—The term ‘covered outpatient drug’ does not include any drug, biological product, or insulin as defined in subparagraph (C) of paragraph (3), if such drug, biological product, or insulin is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producer or distributor operating under the same name or as incident to and in the same setting as, any such drug, biological product, or insulin.

(IV) MULTIPLE SOURCE DRUG.—The term ‘multiple source drug’ means, with respect to a rebate period, a covered outpatient drug not in formulary, as defined by regulation, for which there are 2 or more drug products which—

(A) are rated as therapeutically equivalent (under the Food and Drug Administration’s most recent publication of ‘Approved Drug Products with Therapeutic Equivalence Evaluations’);

(B) unless as provided in paragraph (3)(B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

(C) are sold or marketed in the State during the period.

(5) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term ‘innovator multiple source drug’ means a multiple source drug that was originally marketed under an original new drug application or product licensing application approved by the Food and Drug Administration.

(6) SINGLE SOURCE DRUG.—The term ‘single source drug’ means a covered outpatient drug which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producer or distributor operating under the same name or as incident to and in the same setting as, any such drug, biological product, or insulin.

(7) REBATE PERIOD.—The term ‘rebate period’ means—

(I) the period during which the Secretary has made an agreement with respect to a covered outpatient drug under section 7002;

(II) the period beginning on the date of a final determination by the Secretary that it is a ‘new drug’ within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act or a new drug described in section 210 of chapter 1 of title 21 of the Code of Federal Regulations; and

(III) unless as provided in paragraph (3)(B), the period beginning on the date of a final determination by the Secretary that it is a ‘new drug’ within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act or the period beginning on the date of a final determination by the Secretary that it is a ‘new drug’ within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act or a new drug described in section 210 of chapter 1 of title 21 of the Code of Federal Regulations.
Health and Human Services (in this section referred to as the "Secretary") may enter into obligations under such title with any State (as defined for purposes of such title) for expenses incurred in connection with the enactment of such Act and during fiscal year 1996, but not in excess of the obligation allottment for that State for fiscal year 1996 under section 2122(a)(4) of the Social Security Act (as added by section 7001).

(B) **NONE AFTER MEDIGRANT.**—The Secretary is not authorized to enter into any obligation with a State under title XIX of such Act for expenses incurred on or after the earlier of—

(i) October 1, 1996, or

(ii) the first day of the first quarter on which Medigrant plan of the State title under XXI of such Act is deemed to be a reference to such title or provision.

(C) **AGREEMENT.**—A State's submission of claims for payment under section 1903 of such Act after the date of the enactment of this Act with respect to which the limitation described in subparagraph (A) applies is deemed to constitute the State's acceptance of the obligation limitation under such subparagraph (including the formula for computing the amount of such limitation under such subparagraph (including any provider) at the time of provision or receipt of services).

(D) **EFFECT ON MEDICAL ASSISTANCE.**—Effective on the date of the enactment of this section—

(i) except as provided in this paragraph, the Federal Government has no obligation to provide payment with respect to items and services services to meet the needs of chronically-ill elderly and disabled beneficiaries who have elected to participate in the demonstration project.

(2) **TERMINATION.**—The Secretary may, with the concurrence of appropriate committees of Congress a legislative proposal to terminate the demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under the subsection.

(3) **Oversight.**—The Secretary shall establish quality standards for evaluating and monitoring the demonstration projects conducted under this section. Such quality standards shall include re-permit requirements which contain the following:

(a) A description of the demonstration project.

(b) An analysis of the quality of the services delivered under the project.

(c) An analysis of the savings to the Medicare and Medicaid programs as a result of the demonstration project.

**TITLE VIII—Mедicare**

SEC. 8000. SHORT TITLE OF TITLE; AMENDMENTS AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) **Short Title.**—This title may be cited as the "Medicare Preservation Act of 1995".

(b) **Amendments to Social Security Act.**—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment or repeal of a section of the Social Security Act, the reference shall be considered to be made to that section or other provision of the Social Security Act.
Sec. 8113. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.

Sec. 8114. Sanctions against practitioners and entities subject to failure to comply with statutory obligations.

Sec. 8115. Intermediate sanctions for Medicare health maintenance organizations.

Sec. 8116. Additional exception to anti-kickback penalties for discounted and nonfraudulent care arrangements.

Sec. 8117. Penalties for Medicare Plus MSA fraudulent conversion of assets in order to obtain State health care program benefits.

Sec. 8118. Effective date.

Chapter 3—Administrative and Miscellaneous Provisions

Sec. 8211. Establishment of the health care fraud and abuse data collection program.

Chapter 4—Civil Monetary Penalties

Sec. 8311. Social Security Act civil monetary penalties.

Sec. 8321. Clarification of level of intent required for imposition of sanctions.

Sec. 8331. Penalty for false certification for home health services.

Chapter 5—Amendments to Criminal Law

Sec. 8411. Health care fraud.

Sec. 8421. Forfeitures for Federal health care offenses.

Sec. 8431. Injunctive relief relating to Federal health care offenses.

Sec. 8441. False Statements.

Sec. 8451. Obstruction of criminal investigations of Federal health care offenses.

Sec. 8461. Theft or embezzlement.

Sec. 8471. Laundering of monetary instruments.

Sec. 8481. Authorized investigative demand procedures.

Chapter 6—State Health Care Fraud Control Units

Sec. 8511. State health care fraud control units. Subtitle C—Regulatory Relief

Sec. 8521. Repeal of physician ownership referral prohibitions based on compliance arrangements.

Sec. 8522. Revision of designated health services subject to ownership referral prohibition.

Sec. 8523. Delay in implementation of 1993 ownership referral change until promulgation of regulations.

Sec. 8524. Exceptions to ownership referral requirements.

Sec. 8525. Effective date.

Subtitle D—Medicare Plus MSA

Sec. 8601. Payments for home health services.

Sec. 8602. Maintaining savings resulting from temporary freeze on payment increases for home health services.

Sec. 8603. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for home health agencies.

Sec. 8604. Extension of period of home health agency certification.

Part 2—Medicare Secondary Payer Improvements

Sec. 8611. Extension and expansion of existing requirements.

Sec. 8612. Improvements in recovery of payments.

Chapter 3—Other Items and Services Under Parts A and B

Sec. 8701. Medicare coverage of certain anti-cancer drug treatments.

Sec. 8702. Administrative provisions.

Chapter 4—Failsafe

Sec. 8801. Failsafe budget mechanism.

Subtitle H—Rural Areas

Sec. 8901. Medicare coverage of hospital services.

Sec. 8902. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for hospital care.

Sec. 8903. Establishment of rural emergency access care hospitals.

Sec. 8904. Classification of rural referral centers.

Sec. 8905. Floor on area wage index.

Sec. 8906. Additional payments for physicians’ services furnished in shortage areas.

Sec. 8907. Payments to physician assistants and nurse practitioners for services furnished in outpatient or home settings.

Sec. 8908. Expanding access to nurse aide training in underserved areas.
Subtitle A—MedicarePlus Program

CHAPTER 1—MEDICAREPLUS PROGRAM

SEC. 1801. ESTABLISHMENT OF MEDICAREPLUS PROGRAM.

(a) In general.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—MEDICAREPLUS PROGRAM"

"ELIGIBILITY, ELECTION, AND ENROLLMENT"

"Sec. 1851. (a) Choice of Medicare Benefits Through MedicarePlus Plans.—"

"(1) In general.—Subject to the provisions of this section, every MedicarePlus eligible individual (as defined in paragraph (3)) is entitled to enroll under this title.

"(A) Coordinated care plans which provide health care services, including health maintenance organization plans and preferred provider organization plans.

"(B) Special Rule for High Deductible Plan and Contributions to High Deductible Medicare MSA.—A high deductible plan, as defined in section 1859(b)(2), and a contribution into a High Deductible MedicarePlus medical savings account (MSA).

"(C) Plans Offered by Provider-Sponsored Organization.—A MedicarePlus plan may be offered by a provider-sponsored organization, as defined in section 1853(i).

"(D) Union, Taft-Hartley, and Association Plans.—A MedicarePlus organization plan offered by a union, a Taft-Hartley organization, or a qualified association sponsor, as defined in section 1859.

"(E) Fee-for-Service Plans.—Plans that reimburse hospitals, physicians, and other providers on the basis of a privately determined fee schedule or other basis.

"(F) Other Health Care Plans.—Any other private plan for the delivery of health care items and services that is not described in a previous subparagraph.

"(G) MedicarePlus Eligible Individual.—"

"(A) In general.—In this title, subject to subparagraph (B), the term "MedicarePlus eligible individual" means an individual who is entitled to benefits under part A and enrolled under part B, or who through enrollment in a MedicarePlus plan under this part.

"(B) Types of MedicarePlus Plans That May Be Available.—A MedicarePlus plan may be available under any of the following types of plans of health insurance:

"(i) Coordinated care plans.—Private-coordinated care plans which provide health care services, including health maintenance organization plans and preferred provider organization plans.

"(ii) Special Rule for High Deductible Plan and Contributions to High Deductible Medicare MSA.—A high deductible plan, as defined in section 1859(b)(2), and a contribution into a High Deductible MedicarePlus medical savings account (MSA).

"(iii) Plans Offered by Provider-Sponsored Organization.—A MedicarePlus plan may be offered by a provider-sponsored organization, as defined in section 1853(i).

"(iv) Union, Taft-Hartley, and Association Plans.—A MedicarePlus organization plan offered by a union, a Taft-Hartley organization, or a qualified association sponsor, as defined in section 1859.

"(v) Fee-for-Service Plans.—Plans that reimburse hospitals, physicians, and other providers on the basis of a privately determined fee schedule or other basis.

"(vi) Other Health Care Plans.—Any other private plan for the delivery of health care items and services that is not described in a previous subparagraph.

"(vii) MedicarePlus Eligible Individual.—"

"(viii) MedicarePlus Eligible Individual.—"

"(B) Limitation on Enrollment.—Subject to subparagraph (C), an individual is eligible to elect a MedicarePlus plan offered by the organization and has subsequently discontinued election of such a plan offered by the organization.

"(C) Special Rule for Certain Individuals Covered under FEHBP.—An individual who is eligible to elect a MedicarePlus plan offered by the organization and has previously elected a MedicarePlus plan offered by the organization, and who has made (or is deemed to have made) an election for MedicarePlus plans in an area as soon as such plans become available in that area, shall become effective as provided in subsection (f).

"(D) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of enrolling coverage under this section during the transition period required by section (f). In such an expedited manner as will permit such an election for MedicarePlus plans in an area as soon as such plans become available in that area, the individual is deemed to have chosen the Medicare fee-for-service program option.

"(E) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a MedicarePlus organization at the time of the initial enrollment period and who fail to elect to receive coverage other than MedicarePlus organization are deemed to have elected the MedicarePlus plan offered by the organization (or, if the organization offers more than one plan, the MedicarePlus plan offered by the organization with the lowest net monthly premium).

"(F) CONTINUING PERIODS.—An individual who fails to make an election during the initial election period is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section;

"(ii) a MedicarePlus plan is discontinued, if the individual had elected such plan at the time of the discontinuance period under subsection (e)(1) and (f)(1), and

"(d) Providing Information to Promote Informed Choice.—"

"(1) In general.—The Secretary shall provide for activities under this section to broadly disseminate information to Medicare beneficiaries and (prospective Medicare beneficiaries) on the coverage options provided under this section in an active, informed selection among such options.

"(2) Provision of Notice.—"
rates that will be charged for part B coverage.

(II) GENERAL ELECTION INFORMATION AND IN-
FORMATION ABOUT MEDICARE FEE-FOR-SERVICE
PROGRAM.—The general information regarding elec-
tion under this section (including the annual, co-
ordinated election period and make a new elec-
tion, benefits coverage, and procedures de-
scribed in paragraph (4) and in com-
parative form, concerning such plans.

(III) MEDICARE PLUS MONTHLY CAPITATION RATE.—The amount of the monthly MedicarePlus capitation rate for the area.

(iv) ADDITIONAL INFORMATION.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordi-
nated with the mailing of any annual notice
under section 1904.

(B) NOTIFICATION TO NEWLY MEDICAREPLUS ELIGIBLE INDIVIDUALS.—In addition to the mail-
 notification described in (B)(1)(A), mail to the MedicarePlus eligible individual information referred to in paragraph (2)(A).

(C) FORM.—The information disseminated under this paragraph shall be written and formatted in the most easily understandable manner possible.

(D) PERIODIC UPDATING.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of MedicarePlus plans and the benefits and monthly premiums (and net monthly premiums) for such plans.

(2) GENERAL ELECTION INFORMATION AND IN-
FORMATION ABOUT MEDICARE FEE-FOR-SERVICE
PROGRAM.—General information under this
paragraph, with respect to coverage under this part during a year, shall include the following:

(A) BENEFITS.—A general description of the benefits covered (and not covered) under the medicare fee-for-service program under parts A and B, including—

(i) covered items and services, and

(ii) cost sharing, such as deductibles, coinsurance, and copayment amounts, and the beneficiary liability for balance
billing.

(B) PART B PREMIUM.—The part B premium rates that will be charged for part B coverage.

(C) ELECTION PROCEDURES.—Information and instructions on how to exercise election op-
tions under this section.

(D) PROCEDURAL RIGHTS.—The general de-
scription of procedural rights (including griev-
ance procedures) of beneficiaries under the med-
icare fee-for-service program and the MedicarePlus program.

(E) RIGHT OF ORGANIZATION TO TERMINATE
CONTRACT.—In addition to the MedicarePlus or-
ganization by law to terminate or refuse to
renew its contract and the effect the termination or nonrenewal of its contract may have on individ-
uals enrolled with the MedicarePlus plan under this part.

(F) USE OF 911 EMERGENCY NUMBER.—A state-
mnt that the use of the 911 emergency tele-
phone number in an emergency situation (speci-
fied by the Secretary) in the context of the MedicarePlus plan is first made available to individuals in the area and
ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (6)(D).

(2) DURING TRANSITION PERIOD.—Subject to
paragraph (6)(D), an individual may discontinue an election of a MedicarePlus plan offered by a MedicarePlus organization other than during an annual, co-
ordinated election period and make a new elec-
tion under this section if—

(A) the organization's or plan's certification under part C has been terminated or the organi-
ization has terminated or otherwise discontinued providing the plan;

(B) the individual is no longer eligible to elect the plan because of a change in the indi-
vidual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of an individual plan of-
fered by a qualified association sponsor or ter-
minated educational and publicity campaign to in-
form the public of MedicarePlus eligibles about such plans and the election process provided
under this subsection (including the annual, co-
ordinated election periods that occur in subse-
quent years).

(3) SPECIAL 90-DAY DISENROLLMENT OPTION.—
(A) IN GENERAL.—In the case of the first time
organization other than during an annual, plan (other than a high deductible plan) offered by a particular MedicarePlus organization under this section, the individual may change such election the month of October before such year. (C) EFFECT OF DISCONTINUATION OF ELEC-
TIONS.—An individual who discontinues an elec-
tion under subparagraph (A) may, during the period specified by the Secretary, make a new election under this subsection (a) or (B).

(5) SPECIAL ELECTION PERIODS.—An individ-
ual may discontinue an election of a MedicarePlus plan offered by a MedicarePlus organization other than during an annual, co-
ordinated election period and make a new elec-
tion under this section if—

(A) the organization's or plan's certification under part C has been terminated or the organi-
ization has terminated or otherwise discontinued providing the plan;

(B) the individual is no longer eligible to elect the plan because of a change in the indi-
vidual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of an individual plan of-
fered by a qualified association sponsor or ter-
minated educational and publicity campaign to in-
form the public of MedicarePlus eligibles about such plans and the election process provided
under this subsection (including the annual, co-
ordinated election periods that occur in subse-
quent years).

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November 20, 1995

(2) TO THE EXTENT PRACTICABLE, THE SEC-
RETARY SHALL PROVIDE FOR A NATIONALLY COORDI-
NATED EDUCATIONAL AND PUBLICITY CAMPAIGN TO IN-
FORM THE PUBLIC OF MEDICAREPLUS ELIGIBLES ABOUT
SUCH PLANS AND THE ELECTION PROCESS PROVIDED UNDER
THIS SUBSECTION (INCLUDING THE ANNUAL, CO-
ORDINATED ELECTION PERIODS THAT OCCUR IN SUB-
SEQUENT YEARS).
(f) Effectiveness of Elections.—

(1) During initial coverage election period.—An election of coverage made during the initial coverage election period under subsection (e)(1) that is not rescinded or otherwise made inapplicable under section 1856 shall take effect as of the first day of the following year.

(2) During transition; 90-day disenrollment option.—An election of coverage made under subsection (e)(2) and an option to discontinue a MedicarePlus option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

(3) Coordinated election period and high deductible plan election.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year or for a high deductible plan made during any other period under subsection (e) shall terminate the Secretary's election for the year to the extent that the election was made for a deductible amount in excess of the high deductible amount under such plan.

(4) Other periods.—An election of coverage made during any other period under subsection (e)(5) shall take effect in that same manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

(g) Guaranteed Issue and Renewal.—

(1) In general.—Except as provided in this subsection, a MedicarePlus organization shall provide that at any time during which elections are accepted under this section with respect to a MedicarePlus plan offered by the organization, the organization shall accept without restriction any elections made by individuals who are eligible to make such election.

(2) Priority.—If the Secretary determines that a MedicarePlus organization, in relation to a MedicarePlus plan it offers, has a capacity limit and the number of MedicarePlus eligible individuals to elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided:

(A) first to such individuals as have elected the plan at the time of the determination; and

(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the plan) on a basis described in section 1852(b).

The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the Medicare program in the service area of the plan.

(3) Limitation on termination of election.—

(A) in general.—Subject to subparagraph (B), a MedicarePlus organization may not for any reason terminate the election of any individual under this section for a MedicarePlus plan it offers.

(B) in general.—This part and section 1854(c)(3) in general.—This part shall not apply to the extent that the Secretary determines that it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the Medicare program in the service area of the plan.

(4) Prohibition of certain marketing practices.—Each MedicarePlus plan shall conform to fair marketing standards in relation to an individual's liability under section 1851(c)(4) and related with respect to any other plan offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form used to carry out elections under this section on behalf of any individual.

(5) Deemed approval (1-stop shopping).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional health care financing administration under section 1852(b) with respect to MedicarePlus plans offered under this part, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization.

(6) Payment rates. The applicable coinsurance or copayment rate (that would have applied under the Medicare fee-for-service program described in section 1851(a)(3)(A)) of the payment rate provided under the contract.

(7) Supplemental optional benefits. Each MedicarePlus organization may offer under a MedicarePlus plan optional supplemental benefits to each individual elected in the plan under this part for an additional premium amount. If the supplemental benefits are offered only to individuals enrolled in the plan under this part, the additional premium amount shall be the same for all enrolled individuals in the MedicarePlus payment area. Such benefits may be marketed and sold by the MedicarePlus organization outside of the enrollment process described in section 1851(c).

(8) Organization as secondary payer. Notwithstanding any other provision of law, a MedicarePlus organization (in the case of the provision of items and services to an individual under a MedicarePlus plan under circumstances) shall be liable to pay for the provision of such items and services to an individual who has been elected in the plan under this part for such items and services for which payment under title XIX is available, unless the individual has been elected in the plan under this part for such items and services for which payment under title XIX is available, unless:

(A) the insurance carrier, employer, or other entity which under such plan, plan, or policy is to pay for the provision of such items, or

(B) such individuals to the extent that the individual has been elected in the plan under such plan, plan, or policy for such items.

(9) National coverage determinations.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1854(b) and ending on the date of the next announcement under such section and the Secretary determines that the determination will result in a significant change in the costs to a MedicarePlus organization of

**Sec. 1852. (a) Basic Benefits.**
providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual MedicarePlus capitation rate under section 1854 included in the announcement made at the beginning of such period—

(A) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

(B) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1851(i) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances in the first contract year that begins after the end of such period, unless otherwise required by law.

(3) ANTIDISCRIMINATION.—A MedicarePlus organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual. A MedicarePlus organization shall notify each enrollee under this part of provisions of this section at the time of the individual’s enrollment.

(c) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A MedicarePlus organization shall disclose, and standards established in section 1851(d)(3)(A) and exclusions from coverage and, if it is a high deductible plan, a comparison of benefits under such a plan with benefits under part B (to services furnished by inpatient and outpatient health care professionals of the process followed in the provision of such health care services; (A) the services were medically necessary and (B) the premium price for the optional supplemental benefits.

(d) QUALITY ASSURANCE PROGRAM.—The Secretary shall provide that a MedicarePlus organization approved by the Secretary, that begins after the end of such period, unless otherwise required by law.

(2) PROTECTION OF ENROLLEES FOR CERTAIN EMERGENCY SERVICES.—

(A) PARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (B), which are furnished by a participating physician or provider of services to an individual enrolled with a MedicarePlus organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services will accept as payment in full from the organization for such emergency services described in subparagraph (C) the amount that would be payable to the physician or provider of services under part B and from the individual under such part, if the individual is not enrolled with such an organization under this part.

(B) NONPARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (B), when medically necessary the organization must have arrangements, established in accordance with regulations of the Secretary, with reasonable promptness and in a manner which assures continuity in the provision of emergency services described in subparagraph (B), for ensuring that any entity or individual through which the organization operates, have an agreement with a MedicarePlus unrestricted fee-for-service plan that begins after the end of such period, unless otherwise required by law.

(e) COVERAGE DETERMINATIONS.—

(1) DECISIONS ON NONEMERGENCY CARE.—A MedicarePlus organization shall make determinations regarding authorization of requests for nonemergency care on a timely basis, depending on the urgency of the situation.

(2) APPEALS.—

(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited basis.

(D) GRIEVANCES AND APPEALS.—

(A) GRIEVANCE MECHANISM.—Each MedicarePlus organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees with MedicarePlus plans of the organization under this part.

(B) APPEALS.—An enrollee with a MedicarePlus plan of a MedicarePlus organization under this part who is dissatisfied by reason of the enrollee’s failure to receive any health care service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 1905(b), and in any such hearing the Secretary shall make the organization a party. If, however, in any such case, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary’s final decision as provided in section 1911, and both the Secretary and the organization shall be entitled to be parties to that judicial review. In applying sections 1905(b) and
LABOR.—The Secretary shall consult with the organization’s medical policy, quality, and physicians who have entered into participation by the organization under this part. Such procedures shall be reasonable procedures and, in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503, so long as such requirements provide at least as much protection for beneficiaries as would apply if this paragraph did not apply.

(2) To maintain accurate and timely medical records for enrollees. (3) Limitations on physician incentive plans.—(A) In general.—No MedicarePlus organization may operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

(i) The plan does not provide for any plan member to receive any incentive payment that is paid on a per-member per-period basis.

(ii) The plan does not provide for any plan member to receive any incentive payment that is paid on a per-member per-period basis.

(iii) The plan does not provide for any plan member to receive any incentive payment that is paid on a per-member per-period basis.

(B) Physician incentive plan defined.—In this paragraph, the term "physician incentive plan" means any compensation arrangement between a MedicarePlus organization and a physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part. (C) Coordination with the Secretary of Labor.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this paragraph, as they apply to MedicarePlus organizations, do not result in any serious harm to the quality of health care services provided to members of MedicarePlus plans.

(4) Coordination with the Secretary of Labor.—The Secretary shall consult with the organization that seeks to offer a MedicarePlus plan in a State for the purpose of determining whether the plan is consistent with the requirements of this paragraph. (5) Exception for unrestricted fee-for-service plans.—The provisions of this subparagraph shall not apply to a MedicarePlus organization that seeks to offer a MedicarePlus plan in a State if the State requires the organization, and its licensing standards or review process imposes unreasonable barriers to market entry, including through the imposition of any requirements, procedures, or standards to which the organization is not generally applicable to any other entities engaged in substantially similar business.

(6) Application of certain rules.—The provisions of subparagraphs (C) and (D) of paragraph (4) shall apply to this paragraph in the same manner as they apply under such paragraph, except that for the purpose any reference in paragraph (4) to a 24-month period is deemed a reference to a 24-month period. (7) Prepaid payment.—A MedicarePlus organization shall be compensated (except for stop-loss protection) in an amount equal to the full financial risk on a prospective basis for the provision of health care services to enrolled members by a payment which is paid on a period basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member. (8) Assumption of full financial risk.—The MedicarePlus organization shall assume full financial risk on a prospective basis for the provision of health care services (except for stop-loss protection) in an amount equal to the full financial risk on a prospective basis for the provision of health care services to enrolled members.

(9) May obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year.

(10) May obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year.

(11) May obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year.

(12) May obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year.

(13) May obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year.

(14) May obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year.

(15) May obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year.

(16) May obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year.
"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a MedicarePlus organization that is a union sponsor, Taft-Hartley sponsor, or a qualified association sponsor, this subsection shall not apply with respect to MedicarePlus plans offered by such organization, and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).

"(d) PROVISION AGAINST RISK OF INSOLVENCY.—

(1) IN GENERAL.—Each MedicarePlus organization that provides coverage under subsection (f), the Secretary shall establish standards relating to the financial solvency and capital adequacy of the organization and including provision to prevent enrollees from being held liable to any person or entity for the plan sponsor's debts in the event of the plan sponsor's insolvency. Such standards shall take into account the nature and type of MedicarePlus plans approved by the Secretary for a determination that the State is approved under subparagraph (A). The Secretary shall publish a list of States that are approved under this paragraph to prevent enrollees from being held liable to any entity for the plan sponsor's debts in the event of the plan sponsor's insolvency. Such standards shall take into account the nature and type of MedicarePlus plans approved by the Secretary for a determination that the State is approved under subparagraph (A). The Secretary shall publish a list of States that are approved under this paragraph to prevent enrollees from being held liable to any entity for the plan sponsor's debts in the event of the plan sponsor's insolvency. Such standards shall take into account the nature and type of MedicarePlus plans approved by the Secretary for a determination that the State is approved under subparagraph (A).

(2) TREATMENT OF PROVIDER-SPONSORED ORGANIZATIONS.—

(A) IN GENERAL.—In the case of an entity that is a provider-sponsored organization that is operating—

(i) in a State approved under subparagraph (b), the organization shall meet the standards described in paragraph (1) through licensure by the State, or

(ii) in a State that is not so approved, the organization shall meet the standards described in paragraph (1) through application and certification licensure by the Secretary.

(B) APPROVED STATES.—

(i) APPLICATION PROCESS.—For purposes of subparagraph (A), the Secretary shall establish a process under which a State may apply to the Secretary for a determination that the State is applying to provider-sponsored organizations, through its process for licensing provider-sponsored organizations, solvency standards that are identical with the solvency standards established under section 1856(c) for such organizations.

(ii) DETERMINATION.—The Secretary shall approve such a State if the Secretary determines that the State is applying such standards. If the Secretary denies such an approval, the State may reapply for such a determination.

(iii) PUBLICATION.—The Secretary shall publish a list of States that are approved under this subparagraph.

(3) TREATMENT OF UNI0N AND TAFT-HARTLEY SPONSORS.—An entity that is a union sponsor or a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1)."
(c) Calculation of Annual MedicarePlus Capitation Rates.—

(1) In General.—For purposes of this part, the annual MedicarePlus capitation rate, for a MedicarePlus payment area for a contract year consisting of a calendar year, is equal to the greatest of the following:

(A) BLENDED CAPITATION RATE.—The sum of—

(i) area-specific percentage for the year (as specified under paragraph (2) for the year) of the annual-price-adjusted national MedicarePlus capitation rate for the MedicarePlus payment area, as determined under paragraph (3), and

(ii) national percentage (as specified under paragraph (2) for the year) of the input-price-adjusted annual national MedicarePlus capitation rate for the year, as determined under paragraph (4), multiplied by a budget neutrality adjustment factor determined under paragraph (5).

(B) BLENDED CAPITATION RATE.—The sum of—

(i) the sum (for all MedicarePlus payment areas) of the product of (I) the annual area-specific MedicarePlus capitation rate for that year for the area under paragraph (3), and (II) the average number of Medicare beneficiaries residing in that area in the year, divided by

(ii) the total annual number of Medicare beneficiaries residing in all the MedicarePlus payment areas for that year.

(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—

(i) Medicare services shall be divided into 2 types of services: part A services and part B services;

(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

(1) for part A services, the ratio (expressed as a percentage) of hospital payments to all Medicare payments for the year for part A for 1995 to the total average annual per capita rate of payment for the year for parts A and B for 1995, and

(2) for part B services, 100 percent minus the ratio described in subclause (I);

(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(b)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area in

(iv) for part B services—

(1) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

(2) the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii), and

(v) the index described in clause (iii) shall be computed based only on the beneficiary population who are 65 years of age or older who are not determined to have end stage renal disease.

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

(D) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall adjust the payment rates otherwise established under this paragraph for MedicarePlus payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made for MedicarePlus payment areas in the State in the absence of the adjustment under this paragraph.

(E) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

(1) all the portions of each metropolitan statistical area within the consolidated metropolitan area, all of the primary metropolitan statistical area within the consolidated area within the State, are treated as a single MedicarePlus payment area, and

(2) all areas in the State that do not fall within a metropolitan statistical area are treated as single MedicarePlus payment areas.

(F) AREAS.—In subparagraph (C), the terms 'metropolitan statistical area,' 'consolidated metropolitan statistical area,' and 'primary metropolitan statistical area' are designated as such by the Secretary of Commerce.

(G) SPECIAL RULES FOR INDIVIDUALS ELECTING HIGH DEDUCTIBLE PLANS.—

(1) IN GENERAL.—In the case of an individual who has elected a high deductible plan, notwithstanding the preceding provisions of this section—

(A) the amount of the monthly payment to the MedicarePlus organization offering the high deductible plan shall not exceed the monthly premium for the plan, and

(B) subject to paragraph (2), the difference between the amount of payment that would otherwise be made and the amount of payment to such organization shall be made directly into a High Deductible MedicarePlus MSA (as defined in section 137(b)(2) of the Internal Revenue Code of 1986), and

(C) if the individual has established more than one High Deductible MedicarePlus MSA,
has designated one of such accounts as the individual's High Deductible MedicarePlus MSA for purposes of this part. Under rules under this section, such an individual may elect the maintenance of such account under subparagraph (B) for purposes of this part.

(3) Lump Sum Deposit of Medical Savings Account Contribution.—In the case of an individual enrolling in a high deductible plan effective beginning with a month in a year, the amount of such deposit to the High Deductible MedicarePlus MSA on behalf of the individual for that month and all succeeding months in the year shall be deposited during that first month. In the case of an individual enrolling after a month as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

(4) Permitting Contributions into MedicarePlus MSA.—Effective January 1, 1997, if a member of a Federally-qualified health maintenance organization certifies that a Rebalance MedicarePlus MSA (as defined in section 1851(c) of the Internal Revenue Code of 1986) has been established for the benefit of such member, the health maintenance organization may reduce the basic health services provided otherwise determined under otherwise applicable law by requiring the payment of a deductible by the member for basic health services.

(f) Payments of Rebates.—

(1) In General.—If the amount of the monthly premium for a MedicarePlus plan (other than a high deductible plan) for a MedicarePlus MSA account for an individual enrolled with the plan, the premium (as defined in subparagraph (B)) for the area and year involved, at the election of an individual enrolled under the plan shall either:

(A) in the case of an individual who has a Rebate MedicarePlus MSA account (as defined in section 137(b)(3) of the Internal Revenue Code of 1986) and who elects treatment under this subparagraph, the amount of any payment made to the MedicarePlus organization, the monthly premium charged by a MedicarePlus organization, the monthly premium under section 1854.

(B) pay to the MedicarePlus organization on behalf of such individual the monthly amount equal to 100 percent of such difference in accordance with section 1851(g)(3)(B)(i).

(ii) pay to such individual an amount equal to 75 percent of the remainder of such difference in accordance with section 1851(g)(3)(B)(ii). and

(iii) deposit any remainder of such difference in the Federal Hospital Insurance Trust Fund.

(2) Time for Payment.—

(A) In General.—Subject to subparagraph (B), each MedicarePlus organization shall file with the Secretary each year, in a form and manner specified by the Secretary—

(i) the annual MedicarePlus plan premium for coverage under section 1852(a) under each MedicarePlus plan it offers under this part in each MedicarePlus plan area and year the organization certifies that a Rebalance MedicarePlus MSA account (as defined in section 1851(c)) in which the individual is enrolled, and

(B) the term ‘monthly premium’ means, with respect to such a plan and an individual enrolled with the plan, the premium (as defined in subparagraph (A)) for the plan reduced by the amount of any payment made toward such premium under section 1854.

(3) Limitation on Portion of Monthly Premium Attributable to Required Coverage.—In no case may the ‘excess amount’, for an organization for a plan, be reduced for the actuarial value of the coinsurance and deductibles available to determine that actuarial value, the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization under section 1852(a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization the actuarial value of the coinsurance and deductibles that would be applicable on the average to such individuals.

(4) Uniform Premium.—This paragraph shall be applied uniformly for all enrollees for a MedicarePlus plan area.

(f) Construction.—Nothing in this subsection shall be construed as preventing a MedicarePlus organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this part, and imposing a premium for such additional benefits.

(g) Rules in Relation to Rebates.—To the extent that the adjusted excess amount for a plan exceeds the value of additional benefits provided under subparagraph (A) by the MedicarePlus organization in relation to the plan for a month, the MedicarePlus organization shall provide for payment of the amount of such excess as follows:

(A) Rebate MedicarePlus MSA.—If the individual is a Rebate MedicarePlus plan area, and elects treatment under this subparagraph, the organization shall provide for payment of such excess into such MSA.

(B) Excess Amount.—The organization shall provide for payment of the amount of any additional excess as follows:
(ii) 75 percent of such excess to the individual.

(iii) 25 percent to the Federal Hospital Insurance Trust Fund.

(3) Establishment of fund.—A MedicarePlus organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) or (2) be otherwise prorated among beneficiaries of the organization and the Federal Hospital Insurance Trust Fund or by the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary, at the end of the annual contract period, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates provided subsequent to the transition period by the organization in accordance with such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in subparagraph (A) or (B) of paragraph (2) of this subsection, may be prorated among beneficiaries of the organization in accordance with such paragraph.

(c) Determination based on insufficient data.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment information to determine a reasonable adjustment community rate under section 1833(a)(2) of this title for any other type of MedicarePlus organization, the Secretary may determine an adjustment community rate for a service or services under subparagraph (A) of paragraph (2) of this subsection, and a reasonable adjustment community rate for a service or services under subparagraph (B) of paragraph (2) of this subsection, for purposes of this subsection, respectively.

(1) In general.—For purposes of this subsection, subject to subparagraph (B), the term "reasonable adjustment community rate" for a service or services under subparagraph (A) of paragraph (2) of this subsection, and a reasonable adjustment community rate for a service or services under subparagraph (B) of paragraph (2) of this subsection, mean the rate, at the election of a MedicarePlus organization, either:

(A) the rate of payment for that service or services under subparagraph (A) of paragraph (2) of this subsection, determined on an actuarial equivalent basis by the Secretary annually, the rate under subparagraph (A) of paragraph (2) of this subsection, or the rate under subparagraph (B) of paragraph (2) of this subsection, respectively, and

(B) the rate of payment for that service or services under subparagraph (B) of paragraph (2) of this subsection, determined on an actuarial equivalent basis by the Secretary annually, for a MedicarePlus plan included in such plan, or by the organization in accordance with such paragraph.

(2) Construction.—Nothing in paragraph (1) shall be construed as waiving the requirement of paragraph (2)(A) of this section with respect to the date of the enactment of this section and (ii) 25 percent to the Federal Hospital Insurance Trust Fund, and in the United States, respectively.

(d) Establishment of standards for MedicarePlus plans.—To the extent practicable and consistent with the requirements of this part, standards for MedicarePlus organizations, other than MedicarePlus organizations under section 1853(a)(1) of this title, shall be consistent with such standards, including any interim standards, that are promulgated by the Secretary of Labor with respect to such organizations, and with such regulations as the Secretary may provide for purposes of this section and such standards established or developed for application in the private health insurance market.

(1) General—In general.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter 3 of chapter 5 of title 5, United States Code, standards described in section 1853(a)(1) of this title (relating to the financial solvency and capital adequacy of the organizations and plans described in section 1853(a)(1) of this title) in accordance with such standards, including any interim standards, that are promulgated by the Secretary of Labor with respect to such organizations, and with such regulations as the Secretary may provide for purposes of this section and such standards established or developed for application in the private health insurance market.

(2) Coordination with provider-sponsored organizations.—In the case of a MedicarePlus organization, the Secretary shall, at the request of the Secretary of Labor, or upon discovery of information described in section 1302(8) of this title, establish standards for MedicarePlus plans offered by such organizations and other organizations participating in such plans, other than MedicarePlus organizations under section 1853(a)(1) of this title, with respect to such standards established or developed for application in the private health insurance market.

(1) In general.—In the case of a MedicarePlus organization, the Secretary shall request the National Association of Insurance Commissioners to develop and submit to the Secretary, not later than 12 months after the date of the enactment of this section, standards consistent with such standards, including any interim standards, that are promulgated by the Secretary of Labor with respect to such organizations, and with such regulations as the Secretary may provide for purposes of this section and such standards established or developed for application in the private health insurance market.
(4) Abbreviated period for submission of comments.—In applying section 564(c) of such title under this subsection, 15 days shall be substituted for 30 days.

(5) Selection of negotiated rulemaking committee and facilitator.—The Secretary shall provide for—
(A) the appointment of a negotiated rulemaking committee pursuant to section 566(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (1)); and
(B) the nomination of a facilitator pursuant to section 566(c) of such title by not later than 10 days after the conclusion of the comment period.

(6) Preliminary Committee Report.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary not later than June 1, 1996, regarding the committee’s progress in achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such a target based on the findings of the committee, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary determines by not later than 30 days after the end of the comment period.

(7) Final Committee Report.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a rule by not later than one month before the target publication date.

(8) Interim, Final Effect.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target publication date. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and comment within 60 days for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

(9) Publication of rule after public comment.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target publication date.

(10) Process for approval of applications for certification of solvency.—
(A) in general.—The Secretary shall establish a process for the receipt and approval of applications of entities for certification of solvency of provider-sponsored organizations under this part. Under such process, the Secretary shall act upon a complete application submitted within 60 days after the date it is received.

(B) circulation of proposed application form.—By March 1, 1996, the Secretary, after consultation with the negotiated rulemaking committee, shall circulate a proposed application form that could be used by entities considering being certified for solvency under this part.

(C) Certification Process.—
(I) State certification process for state-regulated organizations and non-solvency standards for provider-sponsored organizations.—
(A) approval of state process.—The Secretary shall adopt, for MedicaidPlus certification and enforcement program established by a State for applying the standards established under this section to MedicarePlus organizations (other than union sponsors and Taft-Hartley sponsors and other than solvency standards for provider-sponsored organizations) and MedicarePlus plans offered by such organizations (other than state-regulated organizations), a MedicaidPlus certification and enforcement program effectively provides for the application and enforcement of such standards in the State with respect to such organizations and plans and does not discriminate in its application by type of organization or plan. Such program shall provide for certification of compliance by such organizations and plans with the applicable requirements of this part not less than once every 3 years.

(B) effect of certification under state process.—A MedicarePlus organization and MedicarePlus plan offered by such an organization that is certified under such program is considered to have been certified under this paragraph, and certification shall be construed as requiring the plan to individuals residing in the State.

(C) user fees.—The State may impose user fees on organizations seeking certification under this paragraph in such amounts as the State deems sufficient to finance the costs of such certification. Nothing in this subparagraph shall be construed as restricting a State’s authority to impose premium taxes, other taxes, or other levies.

(D) review.—The Secretary periodically shall review State programs approved under subparagraph (A) to determine if they continue to provide for certification and enforcement described in such paragraph. If the Secretary determines that such a program does not provide for such certification and enforcement before one month before the target publication date, the final certification report shall provide for the adoption of such a plan of correction as would provide for such certification and enforcement at the target publication date.

(E) effect of no state program.—Beginning on the date such a plan of correction is approved under section 1856, in the case of organizations and plans in States in which a certification program has not been approved and in operation on the date such a plan of correction is approved, the Secretary shall establish a process for the certification of MedicarePlus organizations (other than union sponsors and Taft-Hartley sponsors and other than solvency standards for provider-sponsored organizations) and plans of such organizations as meeting such standards.

(F) publication of list of approved state programs.—The Secretary shall publish (and periodically update) a list of those State programs which are approved for purposes of this paragraph.

(11) Federal certification process for union sponsors and Taft-Hartley sponsors.—
(A) Establishment.—The Secretary shall establish a process for the certification of union sponsors and Taft-Hartley sponsors and MedicarePlus plans offered by such sponsors and organizations as meeting the applicable standards established under this section.

(B) involvement of secretary of labor.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

(C) use of state licensing and private accreditation process.—
(I) in general.—The process under this paragraph shall, to the maximum extent practicable, provide that MedicaidPlus organizations and MedicarePlus plans to be certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or plan.

(II) Periodic Accreditation.—The use of an accreditation process for purposes of this subparagraph is valid only for such period as the Secretary specifies.

(D) User fees.—The Secretary may impose user fees on entities seeking certification under this paragraph in such amounts as the Secretary deems sufficient to finance the costs of such certification.
was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

(5) AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, modification, or termination of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

(6) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

(1) INSPECTION AND AUDIT.—Each contract under this part shall provide that the Secretary, or any person or organization designated by the Secretary—

(i) shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

(ii) shall have the right to audit and inspect any books and records of the MedicarePlus organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, containing a description of the alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

(3) INCLUSION.—

(A) IN GENERAL.—Each MedicarePlus organization shall, in accordance with regulations of the Secretary, provide to the Secretary financial information which shall include the following:

(i) Such information as the Secretary may require demonstrating that the organization has a fiscal sound operation.

(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

(1) any sale or exchange, or leasing of any property between the organization and a party in interest;

(2) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice associations (or associations), or any combination thereof; and

(3) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which concerns credit between an organization and a party in interest includes—

(A) information respecting an organization which concerns credit between an organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

(B) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof.

(4) IN GENERAL.—Each MedicarePlus organization with a contract under this section—

(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) the individual;

(B) imposes net monthly premiums on individuals enrolled under this part in excess of the net monthly premiums permitted;

(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

(E) misrepresents or falsifies information that is furnished—

(i) to the Secretary under this part, or

(ii) to an individual or to any other entity under this part;

(F) fails to comply with the requirements of section 1852(j)(3); or

(G) employs or contracts with any individual or entity to provide participation in a MedicarePlus organization under title I under section 1122 or 1122A for the provision of health care, utilization review, medical social work, or administrative services or employees or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services, which—

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

(2) REMEDIES.—The remedies described in this paragraph are—

(A) civil money penalties not of more than $25,000 for each determination under paragraph (1) or, with respect to a determination under section 1852(j)(3), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual whose medical condition or history indicates a need for substantial future medical services if and to the extent such penalty has been corrected and is not likely to recur, or

(C) suspension of payment to the organization under this part for individuals enrolled as beneficiaries of the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a MedicarePlus organization for which the Secretary makes a determination under sub-section (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

(A) civil money penalties of not more than $25,000 for each determination under section 1122A (c)(2) if the efficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis of the determination has been corrected and is not likely to recur.

(4) PROCEEDINGS.—The provisions of section 11228 (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 11228(a).

(5) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a MedicarePlus organization or may impose the intermediate sanctions described in subsection (f) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

(1) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

(2) the Secretary impose more severe sanctions, organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

(4) the Secretary provides the organization with a reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

STANDARDS FOR MEDICAREPLUS AND MEDICARE INFORMATION TRANSACTIONS AND DATA ELEMENTS

"SEC. 1858. (a) ADOPTION OF STANDARDS FOR DATA ELEMENTS.—

(1) IN GENERAL.—Pursuant to subsection (b), the Secretary shall adopt as standards for MedicarePlus and Medicare information transactions and data elements of MedicarePlus and medicare information and
modifications to the standards under this section that are—

"(A) consistent with the objective of reducing the administrative costs of providing and paying for health care and health plans compared to the alternative; and

"(B) developed or modified by a standard setting organization (as defined in subsection (h))."

(2) SPECIAL RULE RELATING TO DATA ELEMENTS.—The Secretary may adopt or modify a standard relating to data elements that is different from the standard developed by a standard setting organization if—

"(A) the different standard or modification will substantially reduce administrative costs to health plans and health plans compared to the alternative; and

"(B) the standard or modification is promulgated in accordance with the rulemaking procedures set forth in chapter III of title 5, United States Code.

(3) SECURITY STANDARDS FOR HEALTH INFORMATION NETWORK.—

"(A) IN GENERAL.—Each person, who maintains or transmits MedicarePlus and medicare information or data elements of MedicarePlus and medicare information and is subject to this section, shall be responsible for developing and implementing reasonable and appropriate security standards and mechanisms to maintain the integrity of the information; and

"(B) SECURITY STANDARDS.—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 MedicarePlus and medicare information system. In developing unique health identifiers for each health plan and health care provider, the Secretary shall take into account existing standard sets and any multiple use of standardized classifications for health care providers.

(4) PUNITIVE PENALTY FOR IMPROPER DISCLOSURE.—A person who knowingly uses or causes to be used a unique health identifier under subparagraph (A) for a purpose that is not authorized by the Secretary shall—

"(i) be fined not more than $50,000, imprisoned not more than 1 year, or both; or

"(ii) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both.

(3) CODE SETS.—

"(A) IN GENERAL.—The Secretary, in consultation with the MedicarePlus and Medicare Information Advisory Committee, experts from the private sector, and Federal and State agencies shall—

"(i) select code sets for appropriate data elements from the code sets that have been developed by private and public entities; or

"(ii) establish code sets for such data elements if no code sets for the data elements have been developed.

(B) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution of code sets and modifications made to such code sets under subsection (c)(2).

(4) ELECTRONIC SIGNATURE.—

"(A) IN GENERAL.—The Secretary, in consultation with the MedicarePlus and Medicare Information Advisory Committee, experts from the private sector, and Federal and State agencies shall promulgate regulations specifying procedures for the electronic transmission and authentication of signatures, compliance with which will be deemed to satisfy Federal and State statutory requirements for electronic signatures with respect to information transactions described in this section and written signatures on enrollment and disenrollment forms.

"(B) PAYMENTS FOR SERVICES AND PREMIUMS.—Nothing in this section shall be construed to prohibit the payment of health care services or health plan premiums by debit, credit, electronic fund transfer, payment card or numbers, or other electronic means.

(5) TRANSFER OF INFORMATION BETWEEN HEALTH PLANS.—The Secretary shall develop rules and procedures for transferring information between health plans that are based on standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

(6) COORDINATION OF BENEFITS.—If, at the end of the 5-year period beginning on the date of the enactment of this section, the Secretary determines that additional transaction standards for coordinating benefits are necessary to maintain the security, privacy, and confidentiality of health care information, the Secretary shall adopt such additional transaction standards. The Secretary shall publish in the Federal Register the recommendations of the MedicarePlus and Medicare Information Advisory Committee regarding the adoption of a standard under this section.

(7) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, the standards adopted under this section shall not require disclosure of trade secrets or confidential commercial information by an entity operating a MedicarePlus and medicare information network.

(8) TIMETABLES FOR ADOPTION OF STANDARDS.—

"(1) INITIAL STANDARDS.—Not later than 18 months after the date of the enactment of this section, the Secretary shall adopt standards relating to the information transactions, data elements of MedicarePlus and medicare information, and security described in subsections (a) and (b).

"(2) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

"(A) IN GENERAL.—The Secretary shall review the standards adopted under this section and shall adopt additional or modified standards, that have been developed or modified by a standard setting organization, as determined appropriate, but not more frequently than once every 12 months. Any addition or modification to such standards shall be implemented in a manner which minimizes the disruption and cost of compliance.

"(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

"(A) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

"(B) ADDITIONAL RULES.—If a code set is modified under this paragraph, the modified code set shall include instructions on how data elements of MedicarePlus and medicare information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this paragraph shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

(9) REQUIREMENTS FOR HEALTH PLANS.—

"(1) IN GENERAL.—A health plan shall conduct any of the information transactions described in subsection (b)(1) with a health plan as a standard transaction, the health plan shall conduct such standard transaction in a timely manner and the information transmitted or received in connection with such transaction shall be in the form of standard data elements of MedicarePlus and medicare information network service for processing into standard data elements and transmission.

"(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirement imposed on such plan under paragraph (1) by different transmitting standard data elements of MedicarePlus and medicare information or submitting nonstandard data elements to a MedicarePlus and medicare information network service for processing into standard data elements and transmission.

(10) TIMETABLES FOR COMPLIANCE WITH REQUIREMENTS.—

"(A) IN GENERAL.—Not later than the date on which standards are adopted under subsections (a) and (b) with respect to any type of information transaction or data element of MedicarePlus and medicare information or with respect to security, a health plan shall comply with the requirements of this section with respect to such transaction or data element.

"(B) TRANSFER OF INFORMATION BETWEEN HEALTH PLANS.—If the Secretary adopts a modified standard under subsection (a) or (b), a health plan

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shall be required to comply with the modified standard at such time as the Secretary deter-
mines appropriate taking into account the time
needed to comply due to the nature and extent
of the failure to comply. However, the time deter-
mained appropriate under the preceding sentence
shall be no earlier than the last day of the 180-
day period beginning on the date such modified
standard is adopted. The Secretary may extend the
time for compliance for small health plans, if
the Secretary determines such extension is ap-
propriate.

(a) PAYMENT FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS.—
(1) GENERAL.—
(A) In general. Except as provided in
paragraph (2), the Secretary shall impose on
any person that violates a requirement or stand-
ard—
(i) with respect to MedicarePlus and medi-
care information transactions, data elements of
MedicarePlus and medicare information, or se-
curity imposed under subsection (a) or (b); or
(ii) with respect to health plans imposed
under subsection (d); a penalty of not more than $100 for each such
violation of a specific standard or requirement,
but the total amount imposed for all such viola-
tions of a specific standard or requirement dur-
ing the calendar year shall not exceed $25,000.

(B) Provisions. The provisions of section
1128A (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 paragraph in the same manner as such
provisions apply to the imposition of a
penalty under section 1128A.

(2) EXCEPTIONS.—A provision, requirement,
or standard under this section shall not super-
sede a contrary provision of State law if the Sec-
cretary determines that the provision of State law
should be continued for any reason, including
for reasons relating to prevention of fraud and
abuse or regulation of controlled substances.

(2) PAYMENT FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS.—
(1) GENERAL.—
(A) In general. Except as provided in
paragraph (2), the Secretary shall impose on
any person that violates a requirement or stand-
ard—
(i) with respect to MedicarePlus and medi-
care information transactions, data elements of
MedicarePlus and medicare information, or se-
curity imposed under subsection (a) or (b); or
(ii) with respect to health plans imposed
under subsection (d); a penalty of not more than $100 for each such
violation of a specific standard or requirement,
but the total amount imposed for all such viola-
tions of a specific standard or requirement dur-
ing the calendar year shall not exceed $25,000.

(B) Provisions. The provisions of section
1128A (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 paragraph in the same manner as such
provisions apply to the imposition of a
penalty under section 1128A.

(2) EXCEPTIONS.—A provision, requirement,
or standard under this section shall not super-
sede a contrary provision of State law if the Sec-
cretary determines that the provision of State law
should be continued for any reason, including
for reasons relating to prevention of fraud and
abuse or regulation of controlled substances.

(3) Denial of Payment.—Except as pro-
vided in paragraph (2), the Secretary may deny
payment under this title for any item or service
furnished by a person if the person fails to com-
ply with an applicable requirement or standard
for MedicarePlus and medicare information re-
lating to that item or service.

(2) LIMITATIONS.—
(A) Noncompliance Not Discovered.—A
penalty may not be imposed under paragraph
(1) if it is established to the satisfaction of the Secretary that the person liable for the penalty
did not know, and by exercising reasonable dili-
gence would not have known, that such person
failed to comply with the requirement or stand-
ard described in paragraph (1).

(B) FAILURES DUE TO REASONABLE CAUSE.—
(A) In general. Except as provided in clause
(ii), a penalty may not be imposed under
paragraph (1) if—
(i) the failure to comply was due to reason-
able cause, such as willful neglect; or
(ii) the failure to comply was due to reason-
able cause, such as willful neglect; and not to willful neglect, any penalty under para-
graph (1) that is not entirely waived under sub-
paragraph (B) may be waived to the extent that
the penalty for such penalty would be excessive relative to the compliance failure involved.

(f) EFFECT ON STATE LAW.—
(1) GENERAL EFFECT.—
(A) In general. Except as provided in
paragraph (B), a provision, requirement, or standard under this section shall supersede any
contrary provision of State law, including a pro-
vision of State law that requires medical or
health plan records (including billing informa-
tion) to be maintained or transmitted in written
rather than electronic form.

(B) EXCEPTIONS.—A provision, requirement,
or standard under this section shall not super-
sede a contrary provision of State law if the Sec-
cretary determines that the provision of State law
should be continued for any reason, including
for reasons relating to prevention of fraud and
abuse or regulation of controlled substances.

(2) Denial of Payment.—Except as pro-
vided in paragraph (2), the Secretary shall impose on
any person that violates a requirement or stand-
ard—
(i) with respect to MedicarePlus and medi-
care information transactions, data elements of
MedicarePlus and medicare information, or se-
curity imposed under subsection (a) or (b); or
(ii) with respect to health plans imposed
under subsection (d); a penalty of not more than $100 for each such
violation of a specific standard or requirement,
but the total amount imposed for all such viola-
tions of a specific standard or requirement dur-
ing the calendar year shall not exceed $25,000.

(B) Provisions. The provisions of section
1128A (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 paragraph in the same manner as such
provisions apply to the imposition of a
penalty under section 1128A.

(2) EXCEPTIONS.—A provision, requirement,
or standard under this section shall not super-
sede a contrary provision of State law if the Sec-
cretary determines that the provision of State law
should be continued for any reason, including
for reasons relating to prevention of fraud and
abuse or regulation of controlled substances.

(g) MedicarePlus and Medicare information
system. The term MedicarePlus and Medicare infor-
mation system means the MedicarePlus and medicare information network that is formed through the application of the re-
eral and standards established under this section.

(h) MedicarePlus and Medicare information
work service. The term MedicarePlus and Medicare infor-
mation work service means a public or private entity
that—
(A) processes and facilitates the processing of nonstandard data elements of MedicarePlus and
medicare information into standard data ele-
ments;

(B) provides the means by which persons may meet the requirements of this section; or

(C) provides specific information processing services.

(i) MedicarePlus and Medicare information
work service. The MedicarePlus and Medicare infor-
mation work service means a public or private entity
that—
(A) processes and facilitates the processing of nonstandard data elements of MedicarePlus and
medicare information into standard data ele-
ments;

(B) provides the means by which persons may meet the requirements of this section; or

(C) provides specific information processing services.

(j) MedicarePlus and Medicare information
work service. The MedicarePlus and Medicare infor-
mation work service means a public or private entity
that—
(A) processes and facilitates the processing of nonstandard data elements of MedicarePlus and
medicare information into standard data ele-
ments;

(B) provides the means by which persons may meet the requirements of this section; or

(C) provides specific information processing services.
of MedicarePlus and Medicare information, any transaction that meets the requirements and implementation specifications adopted by the Secretary under subsections (a) and (b).

SEC. 1859. (a) DEFINITIONS RELATING TO MEDICAREPLUS ORGANIZATIONS.—In this part—

(1) MEDICAREPLUS ORGANIZATION.—The term ‘MedicarePlus organization’ means a public or private entity that is certified under section 1857 as meeting the requirements and standards for part such for an organization.

(2) PROVIDER-Sponsored ORGANIZATION.—The term ‘provider-sponsored organization’ is defined in section 1853(e).

(3) QUALIFIED ASSOCIATION SPONSOR.—The term ‘qualified association sponsor’ means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a group association entity association) that the Secretary finds—

‘(a) is organized for purposes other than to market a health plan,

‘(b) may not condition its membership on health status, health claims experience, receipt of health care, medical history, or lack of evidence of insurability of a potential member, or substantial proportion of its financial support for the purpose of selling insurance,

‘(c) may not exclude a member or spouse of a member from health plan coverage based on factors described in clause (ii),

‘(d) does not operate solely or principally for the purpose of selling insurance,

‘(e) has at least 1,000 individual members or 200 employer members.

‘(f) if it is a permanent entity which receives a substantial proportion of its financial support from active members; and

‘(g) is not owned or controlled by an insurance company.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

(4) TAFT-HARTLEY SPONSOR.—The term ‘Taft-Hartley sponsor’ means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

(5) UNION SPONSOR.—The term ‘union sponsor’ means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

(6) EMPLOYER, ETC.—In this subsection and section 1882(d), ‘employer,’ ‘employee organization,’ and ‘group health plan’ have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

(b) DEFINITIONS RELATING TO MEDICAREPLUS PLANS.—

(1) MEDICAREPLUS PLAN.—The term ‘MedicarePlus plan’ means health benefits coverage offered under a policy, contract, or plan by a MedicarePlus organization pursuant to and in accordance with a contract under section 1857.

(2) HIGH DEDUCTIBLE PLAN.—

(A) IN GENERAL.—The term ‘high deductible plan’ means a MedicarePlus plan that—

‘(i) provides reimbursement for at least all amounts that would have been payable under parts A and B or by the enrollee if the enrollee had elected to receive benefits through the provisions of such parts; and

‘(ii) provides, after such deductible is met for a year and for all subsequent expenses for benefits referred to in clause (i) in the year, for a level of reimbursement that is not less than—

‘‘(1) 100 percent of such expenses, or

‘‘(2) 100 percent of the amounts that would have been payable under parts A and B, with respect to such expenses, whichever is less.

‘‘(B) DEDUCTIBLE.—The amount of deductible under a high deductible plan—

‘‘(i) for contract year 1997 shall be not more than $5,600, and

‘‘(ii) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this subparagraph, as determined by the maximum average per capita growth percentage under section 1854(c)(6) for the year.

If the amount of the deductible under clause (ii) is not a multiple of $50, it shall be rounded to the nearest multiple of $50.

(3) MEDICAREPLUS UNRESTRICTED FEE-FOR-SERVICE PLAN.—The term ‘MedicarePlus unrestricted fee-for-service plan’ means a MedicarePlus plan that provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or arrangement with the organization offering the plan for the provision of such benefits.

(4) MEDICAREPLUS PAYMENT AREA.—The term ‘MedicarePlus payment area’ is defined in section 1854(a)(13).

(5) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE.—The ‘national average per capita growth percentage’ is defined in section 1854(c)(6).

(6) MONTHLY PREMIUM; NET MONTHLY PREMIUM.—The ‘monthly premium’ and ‘net monthly premium’ are defined in section 1855(a)(2).

(b) CONFORMING REFERENCES TO PREVIOUS PROVISIONS.—

(1) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—The term ‘MedicarePlus eligible individual’ is defined in section 1851(a)(3).

(2) MEDICAREPLUS PAYMENT AREA.—The term ‘MedicarePlus payment area’ is defined in section 1854(d).

(3) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE.—The ‘national average per capita growth percentage’ is defined in section 1854(c)(6).

(c) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may promulgate such interim, final, or temporary regulations as may be necessary after notice and pending opportunity for public comment.

(d) ADVANCE DIRECTIVES.—Section 1866(f)(1) (42 U.S.C. 1395f(f)(1)) is amended—

‘(A) by amending clause (i) to read as follows:—

‘‘(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title or electing a MedicarePlus plan under section 1853—

‘‘(I) a health insurance policy (other than a MedicarePlus plan) in which the policy duplicates health benefits to which the individual is otherwise entitled under this title,

‘‘(II) any health benefits under this title,

‘‘(III) in the case of an individual not electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

‘‘(III) in the case of an individual electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the individual is eligible for health benefits to which the individual is otherwise entitled under this title or under another medicare supplemental policy;

‘(B) by (in the case of clause (iii), by striking ‘clause (i)’ and inserting ‘clause (ii)(I)’); and

‘(C) by adding at the end the following new clause:

‘(iv) For purposes of this subparagraph, a health insurance policy shall be considered to ‘duplicate’ health benefits under this title only when, under its terms, the policy provides specific reimbursement for identical items and services to the extent paid for under this title, and a health insurance policy providing for benefits which includes the amount of the deductible for under this title and (for policies sold or issued after January 1, 1996) that discloses such coordination or exclusion in the policy’s outline of coverage, is not considered to ‘duplicate’ health benefits under this title.

‘(iv) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy providing for benefits which includes the amount of the deductible for under this title) is not considered to ‘duplicate’ health benefits under this title.

‘(iv) For purposes of this subparagraph, a health insurance policy shall be considered to ‘duplicate’ health benefits under this title only when, under its terms, the policy provides specific reimbursement for identical items and services to the extent paid for under this title, and a health insurance policy providing for benefits which includes the amount of the deductible for under this title and (for policies sold or issued after January 1, 1996) that discloses such coordination or exclusion in the policy’s outline of coverage, is not considered to ‘duplicate’ health benefits under this title.

‘(iv) For purposes of this subparagraph, a health insurance policy shall be considered to ‘duplicate’ health benefits under this title only when, under its terms, the policy provides specific reimbursement for identical items and services to the extent paid for under this title, and a health insurance policy providing for benefits which includes the amount of the deductible for under this title and (for policies sold or issued after January 1, 1996) that discloses such coordination or exclusion in the policy’s outline of coverage, is not considered to ‘duplicate’ health benefits under this title.

‘(iv) For purposes of this subparagraph, a health insurance policy shall be considered to ‘duplicate’ health benefits under this title only when, under its terms, the policy provides specific reimbursement for identical items and services to the extent paid for under this title, and a health insurance policy providing for benefits which includes the amount of the deductible for under this title and (for policies sold or issued after January 1, 1996) that discloses such coordination or exclusion in the policy’s outline of coverage, is not considered to ‘duplicate’ health benefits under this title.

‘(iv) For purposes of this subparagraph, a health insurance policy shall be considered to ‘duplicate’ health benefits under this title only when, under its terms, the policy provides specific reimbursement for identical items and services to the extent paid for under this title, and a health insurance policy providing for benefits which includes the amount of the deductible for under this title and (for policies sold or issued after January 1, 1996) that discloses such coordination or exclusion in the policy’s outline of coverage, is not considered to ‘duplicate’ health benefits under this title.
(B) in subparagraph (C)—

(i) by striking "with respect to (i)" and inserting "with respect to (i) and (ii)"; and

(ii) by striking "the sale" and all that follow thereof to the end;

and

(C) by striking subparagraph (D).

(3) MEDICARE PLANS NOT TREATED AS MEDICARE POLICY PLANS.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting "a Medicare plan or" after "and does not include".

(b) In all RULES RELATING TO INDIVIDUALS ENROLLED IN MEDICARE PLANS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

"(u)(1) Notwithstanding the previous provisions of this section, this section shall not apply to the sale or issuance of a medicare supplemental health insurance policy to an individual who—

(a) has been enrolled in a medicare plan for periods in a year (beginning with January 1, 1996, the Secretary shall issue regulations relating to such individuals and such organizations.

(b) on all days in a calendar year ending with respect to a calendar year in which the taxable year begins, over December 31, 1996, may continue enrollment and (ii) (f) and (i) and inserting "and (e)".

CHAPTER 2—SPECIAL RULES FOR MEDICARE PLUS MEDICAL SAVINGS ACCOUNTS

SEC. 1001. MEDICARE PLUS MSA.

(a) In GENERAL.—Part III of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 137 the following new section:

"Sec. 137. Medicare plus MSA.

(b) M EdicarePl uS MSA. For purposes of this section—

"(1) MEdicare PLUS MSA. The term "Medicare Plus MSA" means a Medicare savings account (as defined in section 222(2))—

"(A) which is designated as a Medicare Plus MSA,

"(B) notwithstanding section 222(f)(5), with respect to which no contribution may be made other than—

"(i) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act,

and

"(ii) a contribution described in section (c)(4), and

"(ii) the governing instrument of which provides that trustee-to-trustee transfers described in section (c)(4) may be made to and from such account.

"(2) HIGH DEDUCTIBLE MSA. The term "High Deductible Medicare Plus MSA" means a Medicare Plus MSA which is established in connection with a high deductible plan described in section 1859(b)(2) of the Social Security Act.

"(3) REBATE MEDICARE PLUS MSA. The term "Rebate Medicare Plus MSA" means a "Medicare Plus MSA, other than a High Deductible Medicare Plus MSA.

"(c) SPECIAL RULES FOR DISTRIBUTIONS.—

"(1) DISTRIBUTIONS FOR QUALIFIED MEDICAL EXPENSES.—Section 222(a) is amended—

"(A) to a High Deductible Medicare Plus MSA, qualified medical expenses shall include only expenses for medical care of the account holder, and

"(B) to a Rebate Medicare Plus MSA, qualified medical expenses shall include only expenses for medical care of the account holder and of the spouse of the account holder if such spouse is entitled to benefits under part A of title XVIII of the Social Security Act and is enrolled under part B of such title.

"(2) SPECIAL RULES FOR TREATMENT OF ACCOUNTS OF ACCOUNT HOLDERS.—

"(A) any trustee-to-trustee transfer from a Rebat Medicare Plus MSA to the

"(B) any trustee-to-trustee transfer from a Rebat Medicare Plus MSA to the

"(C) SPECIAL RULES.—For purposes of subsection (B) of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 137. Medicare Plus MSA.

"Sec. 138. Cross references to other Acts.

"Sec. 1002. Certain rebates excluded from gross income.

(a) In GENERAL.—Section 1002 of the Internal Revenue Code of 1986 (relating to amounts re
CHAPTER 3—MEDICARE PAYMENT REVIEW COMMISSION
SEC. 8021. MEDICARE PAYMENT REVIEW COMMISSION.
(a) In General.—Title XVIII is amended by inserting after section 1804 the following new section:

``MEDICARE PAYMENT REVIEW COMMISSION.—``Sec. 1804a. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Review Commission in this section referred to as the 'Commission'.

``(b) DUTIES.—``(1) General duties and reports.—``(A) In general.—The Commission shall review, and make recommendations to Congress concerning, payment policies under this title.

``(B) Annual reports.—By not later than June 1 of each year, the Commission shall submit to Congress a report on the matters described in paragraph (2)(G).

``(C) Additional reports.—The Commission may submit to Congress from time to time such other reports as the Commission deems appropriate. By not later than May 1, 1997, the Commission shall submit to Congress a report on the matters described in paragraph (2)(G).

``(2) Specific duties relating to MedicarePlus program.—Specifically, the Commission shall review, with respect to the MedicarePlus program under part C—

``(A) the methodology for making payment to plans under such program, including the making of differential updates among different payment areas;

``(B) the mechanisms used to adjust payments for risk to adjust such mechanisms to take into account health status of beneficiaries;

``(C) the implications of risk selection between the MedicarePlus organizations and the Medicare fee-for-service option;

``(D) in relation to payment under part C, the development and implementation of mechanisms to assure the quality of care for those enrolled with MedicarePlus organizations;

``(E) the effect of the MedicarePlus program on access to care for Medicare beneficiaries;

``(F) the feasibility and desirability of extending the rules for open enrollment that apply during the first 2 years in which MedicarePlus plans are made available to individuals residing in the county, and the effect of the implementation of the MedicarePlus program on access and quality of care for Medicare beneficiaries.

``(3) Specific duties relating to the fee-for-service system.—Specifically, the Commission shall review payment policies under parts A and B, including—

``(A) the factors affecting expenditures for services in different sectors, including the process for updating hospital, physician, and other fee.

``(B) payment methodologies; and

``(C) the impact of payment policies on access and quality of care for Medicare beneficiaries.

``(4) Specific duties relating to interaction of payment policies with health care delivery generally.—Specifically the Commission shall review the effect of payment policies under this title on the quality, efficiency, and accessibility of health care services under this title and assess the implications of changes in the health services market on the Medicare program.

``(5) Members.—``(1) Number and appointment.—The Commission shall be composed of 15 members appointed by the President.

``(2) Qualifications.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance, economics, health policy, health facility management, health plans and integrated delivery systems, reimbursement of health services, allopathic and osteopathic physicians, and other providers of services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives, including physicians and other health professionals, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research, and expertise in outcomes, cost and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

``(6) Terms.—``(A) In general.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members who were appointed prior to the effective date of this section.

``(B) Vacancies.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office in the Commission.

``(C) Meetings.—The Commission shall meet to the original appointment was made.

``(4) Compensation.—While serving on the business of the Commission (including travel time), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5313 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by statute, by the Comptroller General.

``(5) Data Collection.—In order to carry out its functions, the Commission shall collect and use data on the Medicare program. Physicians serving as personnel of the Commission may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (1) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, privileges, and other protections, all personnel of the Commission shall be treated as if they were employees of the United States.

``(6) Chairperson, Vice Chairperson.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairperson for that term of appointment.

``(7) Meetings.—The Commission shall meet at the call of the Chairperson.

``(8) Director and Staff: Experts and Consultants.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

``(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties under this section;

``(2) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

``(9) Powers.—``(1) Obtaining official data.—The Commission may secure directly from any department or agency of the United States data necessary to enable it to carry out this section. Upon request of the Chairperson, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

``(10) Access to information.—In order to carry out its functions, the Commission shall collect and assess information to—

``(A) utilize existing information, both published and unpublished; and

``(B) provide transportation and subsistence for persons serving without compensation; and

``(C) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

``(11) Authorization of appropriations.—

``(1) Request for appropriations.—The Commission shall submit requests for appropriations for the same fiscal year in which the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

``(2) Authorization.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

``(12) Open Meetings Act. etc.—Pursuant to regulations of the Comptroller General, rules based upon the requirements of section 10 of the Federal Advisory Committee Act shall apply with respect to the Commission.

``(13) Authorization of Appropriations.—The Commission shall submit requests for appropriations for the same fiscal year in which the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

``(14) Authorization.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

``(15) 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.''.

``(b) Abolition of Pro PAC and PPRC.—

``(1) General.—Section 3709 of the Revised Statutes (41 U.S.C. 5948) is amended—

``(i) by striking paragraphs (2) and (6); and

``(ii) by striking "(B) The Commission" and all that follows through "(B)".

``(2) Conforming amendment.—Section 1862 (42 U.S.C. 1395w(e)) is amended—

``(i) by striking paragraphs (2) and (6); and

``(ii) by striking "(B) The Commission" and all that follows through "(B)".

``(3) Conforming amendment.—Section 1862 (42 U.S.C. 1395w) is amended by striking "Propective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Review Commission".

``(4) General.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w-1).

``(b) Conforming amendments.—

``(1) Section 1834(m)(2) (42 U.S.C. 1395m(b)(2)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission".

``(2) Section 1834(b) (42 U.S.C. 1395b(b)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission".

``(3) Section 1834(b) (42 U.S.C. 1395b(b)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission".

``(4) Section 1834(b) (42 U.S.C. 1395b(b)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission".

``(5) Section 1834(b) (42 U.S.C. 1395b(b)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission".

``(6) Section 1834(b) (42 U.S.C. 1395b(b)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission"."
(ii) Section 1842(b) (42 U.S.C. 1395b(b)) is amended by striking "Physician Payment Review Commission" each place it appears in paragraphs (9)(D) and (14)(C)(i) and inserting "Medicare Payment Review Commission"; and

(iii) Section 1848 (42 U.S.C. 1395w–4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission" each place it appears in paragraph (2) (A) (ii), (2) (B) (iii), (b), (c), subsection (d) (2) (F) (paragraphs (1)(B), (3), and (4)(A) of subsection (f), and paragraphs (C) (of subsection (g).

(e) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Review Commission in this subsection referred to as "MPRC") not later than September 30, 1996.

(2) TRANSITION.—Effective January 1, 1997, the Prospective Payment Assessment Commission (in this subsection referred to as "PPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC") are terminated and amendments made by subsection (b) shall become effective. The Comptroller General, to the maximum extent feasible for the transition to the MPRC of assets and staff of PPAC and PPRC, without any loss of benefits or seniority by virtue of such transfers, fund balances available to the ProPAC or PPRC for any period shall be available to the MPRC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MPRC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MPRC) by PPAC and PPRC, and for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MPRC, to refer to the MPRC.

CHAPTER 4—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SUPPORTED ORGANIZATIONS

SEC. 803L. TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SUPPORTED ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.), as amended, is amended by striking section 1853 of the Social Security Act, whether or not such organization participates in a provider-sponsored organization (as defined in section 1853 of the Social Security Act), or whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Health Care Fraud and Abuse Prevention

CHAPTER 1—FRAUD AND ABUSE CONTROL PROGRAM

SEC. 1801. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by adding after section 1852 the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall issue guidelines to carry out this program including coordination with a program to:

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans;

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of payment for health care in the United States;

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse;

(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128B.

(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128B.

(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under this subsection, the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

(3) GUIDELINES.—

(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

(B) INFORMATION GUIDELINES.—

(1) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary or the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

(2) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

(4) ENFORCING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to require such information and documentation as the Inspector General deems necessary to carry out the program established under this subsection.

(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States contributions or gifts in connection with the program established under this subsection.

(3) APPROPRIATED AMOUNTS TO TRUST TROL ACCOUNT.—

(a) IN GENERAL.—There is hereby appropriated to the Trust Fund under section 501(b) of the Medicare Prescription Drug Act of 1996, the sum of $500,000,000.

(b) APPROPRIATED AMOUNTS TO TRUST ACCOUNT.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund under section 501(b) of the Medicare Prescription Drug Act of 1996, the following sums:

(A) the sum of $20,000,000; and

(B) the sum of $500,000,000.

(2) APPROPRIATED AMOUNTS TO TRUST ACCOUNT.—

(a) IN GENERAL.—The Secretary and the Attorney General are authorized to submit a report to Congress not later than December 31, 1996, the latter date of which shall be the effective date of the provisions of this title.

(b) APPROPRIATIONS.—

(1) IN GENERAL.—Amounts appropriated under this title shall be available for the fiscal year beginning October 1, 1996, and thereafter in such sums as the Secretary and the Attorney General shall determine are necessary to carry out the purposes of this title.

(2) APPROPRIATIONS FOR FRAUD AND ABUSE CONTROL PROGRAM.—

(1) IN GENERAL.—There are hereby appropriated to the Account for the fiscal year beginning October 1, 1996, the sum of $20,000,000.

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE PROGRAM FUND.—Section 1817 (42 U.S.C. 1395w–23) is amended by adding at the end the following new subsection:

"(c) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

(a) IN GENERAL.—There are hereby appropriated to the Trust Fund—

(i) such funds and amounts as are required to carry out the purposes of the Office of Inspector General established under this title;

(ii) such funds and amounts as are required to carry out the purposes of the Inspector General of the Department of Health and Human Services established under this title;

(iii) such funds and amounts as are required to carry out the purposes of the Inspector General of the Department of Justice established under this title;

(iv) such funds and amounts as are required to carry out the purposes of the Inspector General established under this title; and

(v) such funds and amounts as are required to carry out the purposes of the Inspector General established under this title.

"(b) APPROPRIATIONS TO TRUST FUND.—

(i) IN GENERAL.—There are hereby appropriated to the Trust Fund, for the fiscal year beginning October 1, 1996, the sum of $500,000,000;

(ii) such funds and amounts as are required to carry out the purposes of the Office of Inspector General established under this title;

(iii) such funds and amounts as are required to carry out the purposes of the Inspector General of the Department of Health and Human Services established under this title;

(iv) such funds and amounts as are required to carry out the purposes of the Inspector General of the Department of Justice established under this title.

(2) TRANSFER OF AMOUNTS.—The Managing TrustEE shall transfer to the Trust Fund under paragraph (C), under such rules as the Secretary shall prescribe, the sum of $500,000,000.

(3) APPROPRIATIONS.—

(a) IN GENERAL.—The sums appropriated under this title shall be available for the fiscal year beginning October 1, 1996, in such sums as the Secretary shall determine are necessary to carry out the purposes of the Inspector General and the Attorney General.

(b) APPROPRIATIONS FOR FRAUD AND ABUSE CONTROL PROGRAM.—

(i) IN GENERAL.—There are hereby appropriated to the Account for the fiscal year beginning October 1, 1996, the sum of $20,000,000.

(ii) APPROPRIATIONS FOR FRAUD AND ABUSE CONTROL PROGRAM.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund under paragraph (C) of title XI, for the fiscal year beginning October 1, 1996, the sum of $20,000,000.

(2) APPROPRIATIONS FOR FRAUD AND ABUSE CONTROL PROGRAM.—

(a) IN GENERAL.—There are hereby appropriated to the Trust Fund under paragraph (C) of title XI, for the fiscal year beginning October 1, 1996, the sum of $20,000,000.

(b) APPROPRIATIONS FOR FRAUD AND ABUSE CONTROL PROGRAM.—

(1) IN GENERAL.—There are hereby appropriated to the Account for the fiscal year beginning October 1, 1996, the sum of $20,000,000.

(2) APPROPRIATIONS FOR FRAUD AND ABUSE CONTROL PROGRAM.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund under paragraph (C) of title XI, for the fiscal year beginning October 1, 1996, the sum of $20,000,000.

(b) APPROPRIATIONS FOR FRAUD AND ABUSE CONTROL PROGRAM.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund under paragraph (C) of title XI, for the fiscal year beginning October 1, 1996, the sum of $20,000,000.
shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the Medicare and Medicaid programs.

"(i) For fiscal year 1996, not less than $60,000,000 and not more than $70,000,000;

"(ii) For fiscal year 1997, not less than $80,000,000 and not more than $90,000,000;

"(iii) For fiscal year 1998, not less than $90,000,000 and not more than $100,000,000;

"(iv) For fiscal year 1999, not less than $100,000,000 and not more than $120,000,000;

"(v) For fiscal year 2000, not less than $120,000,000 and not more than $130,000,000;

"(vi) For fiscal year 2001, not less than $140,000,000 and not more than $150,000,000; and

"(vii) For each fiscal year after fiscal year 2001, not less than $150,000,000 and not more than $200,000,000.

"(B) FEDERAL BUREAU OF INVESTIGATIONS.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigation to carry out the purposes described in subparagraph (C)(i), to be available without further appropriation—

"(i) For fiscal year 1997, $50,000,000;

"(ii) For fiscal year 1998, $60,000,000;

"(iii) For fiscal year 1999, $70,000,000;

"(iv) For fiscal year 2000, $80,000,000;

"(v) For fiscal year 2001, $100,000,000; and

"(vi) For each fiscal year after fiscal year 2001, $200,000,000.

"(C) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

"(i) General use.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of carrying out the activities the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(ii) Activities described.—The activities described in this subsection are as follows:

"((A) Reviews of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, in accordance with the Secretary, the software which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(1) Audit of cost reports.

"(2) Determinations as to whether payment should not be, or should not have been, made under subsection (b), and recovery of payments that should not have been made.

"(3) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(4) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

"(5) ELIGIBILITY OF ENTITIES. The entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity demonstrates to the Secretary that the entity's financial holdings, interests, or activities that could impair the Secretaries ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

"(B) LIMITATION ON CONTRACTOR LIABILITY.—(1) The Secretary shall determine the appropriate times at which the Secretary shall enter into such contracts.

"(2) Except as provided in subparagraph (B), the provisions of section 1128(c)(1) shall apply to contracts and contracting authority under this section.

"(3) Competitive procedures must be used with respect to entering into new contracts under this section, or at any other time considered appropriate by the Secretary, except that the Secretary may contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1181 or contracts under section 1182 in effect on the date of the enactment of this section.

"(4) A contract under this subsection may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

"(b) ELIMINATION OF FINE AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PART B.—

"(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(1) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the agreement pursuant to a contract under the Medicare Integrity Program under section 1893.

"(2) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(2) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The Secretary shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)) the

"(c) SEC. 1102. MEDICARE INTEGRITY PROGRAM.—

"(1) Establishment of Medicare Integrity Program.—Title XVIII is amended by adding at the end the following new section:

"(a) Establishment of Medicare Integrity Program.—

"(1) For each fiscal year after fiscal year 2001, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) Annual Report.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account for the fiscal year.

"(b) Activities described.—The activities described in this subsection are as follows:

"(1) Prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(2) Investigations;

"(3) Financial and performance audits of health care programs and operations;

"(4) Inspections and other evaluations; and

"(5) Provider and consumer education regarding compliance with the provisions of title X.

"(c) Eligibility of entities. The entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity demonstrates to the Secretary that the entity's financial holdings, interests, or activities that could impair the Secretary's ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

"(d) Process for entering into contracts subject to part A.—

"(1) Establishment of Program.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a provision provided under this program shall encourage individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a provision provided under this program.
SEC. 8103. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) In General.—Section 1128B (42 U.S.C. 1320a-7b) is amended as follows:

(1) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS";

(2) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128b)(II)" and inserting "a Federal health care program";

(3) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program";

(4) In the second sentence of subsection (a)—

(A) by striking "a State plan approved under title XIX" and inserting "a Federal health care program to which the public is referred"; and

(B) by striking the "State at its option (notwithstanding any other provision of that title or of such plan)" and inserting the "administration of such program at its option (notwithstanding any other provision of such program)";

(5) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program";

(6) In subsection (c), by inserting "(as defined in section 1128b)(h))" after "a State health care program";

(7) By adding at the end the following new subsection:

(1) For purposes of this section, the term 'Federal health care program' means—

"(i) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government; or

(ii) any State health care program, as defined in section 1128b.");

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.
Section 1128(b)(2) (42 U.S.C. 1320a-7(b)(2)) is amended by adding at the end the following new paragraph:

"(B) the Secretary may prescribe, except that such period may not be less than 1 year.".

SEC. 8116. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR DISCOUNTING AND MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Section 1128(b)(3) (42 U.S.C. 1320a-7(b)(3)) is amended by striking the second sentence.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contracts entered into on or after January 1, 1996.
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SEC. 8117. PENALTIES FOR THE FRAUDULENT CONSUMPTION OR USE OF IDENTIFIERS TO OBTAIN STATE HEALTH CARE PROGRAM BENEFITS.

Section 1228b (42 U.S.C. 1320a±7b(a)) is amended by striking "or" at the end of paragraph (4), by inserting "or" at the end of paragraph (5), and by inserting after paragraph (5) the following sentence:

"(6) knowingly and willfully converts assets, by transfer (including any transfer in trust), aiding in such a transfer, or otherwise, in order for an individual to become eligible for benefits under a State health care program."

SEC. 8118. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this chapter shall take effect January 1, 1996.

CHAPTER 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 8121. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) In General.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 8101 and 8105, is amended by inserting after section 11280 the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"Sec. 1128E. (a) General Purpose.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(1) The purpose of the program is to—

"(A) establish a national database of adverse actions against health care providers, suppliers, or practitioners (or any individual who, without authority, uses the name of a health care provider, supplier, or practitioner who is the subject of a final adverse action); and

"(B) maintain in this Act, references to the Secretary in subsection:

"(1) A VAILABILITY.ÐThe information in this database shall be available to Federal and State government agencies and health plans pursuant to a request from the Secretary or, in the Secretary's discretion to the Federal Health Care Ombudsman; and

"(2) CORRECTIONS.ÐEach Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(2) TO WHOM REPORTED.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(3) FEES FOR DISCLOSURE.—The Secretary shall be reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(4) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(5) ACCESS TO REPORTED INFORMATION.—

"(i) Availability.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to a request from the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(ii) Protection from Liability for Reporting.—No person or entity, including the government agency or health plan in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(iii) Definitions and Special Rules.—For purposes of this section:

"(I) Final Adverse Action.—The term 'final adverse action' includes:

"(1) Civil judgments against a health care provider, supplier, or practitioner for Federal or State court related to the delivery of a health care item or service.

"(2) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (or the revocation or suspension, and the basis, of any such suspension), reprimand, censure or probation;

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(vi) Exclusion from participation in Federal or State health care programs.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) Exception.—The term does not include any action with respect to a malpractice claim.

"(C) Practitioner.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, the licensing and certification of health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license, and

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(iii) Any other negative action or finding by such Federal or State agency that is publicly available information.

"(vi) Exclusion from participation in Federal or State health care programs.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) Exception.—The term does not include any action with respect to a malpractice claim.

"(C) Practitioner.—The term 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services and, without authority holds himself or herself out to be so licensed or authorized.

"(4) Governing Agency.—The term 'Governing agency' shall include—

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans Administration.

"(D) State law enforcement agencies.

"(E) Medicaid Grant fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(G) HEALTH PLAN.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) Determination of Conviction.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 11281(").

"(b) Improved Prevention in Issuance of Medicare Provider Numbers.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on hospitals and other providers of in-}

"(vi) Exclusion from participation in Federal or State health care programs.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) Exception.—The term does not include any action with respect to a malpractice claim.

"(C) Practitioner.—The term 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, the licensing and certification of health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (or the revocation or suspension, and the basis, of any such suspension), reprimand, censure or probation;

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) Exception.—The term does not include any action with respect to a malpractice claim.

"(C) Practitioner.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services and, without authority holds himself or herself out to be so licensed or authorized.

"(4) Governing Agency.—The term 'Governing agency' shall include—

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans Administration.

"(D) State law enforcement agencies.

"(E) Medicaid Grant fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(G) HEALTH PLAN.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) Determination of Conviction.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 11281(").

"(b) Improved Prevention in Issuance of Medicare Provider Numbers.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on hospitals and other providers of in-
investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

(8) The provisions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to the Inspector General.

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking “or” at the end of paragraph (1)(D);

(2) by striking “or” at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting “; or”;

and

(4) by inserting after paragraph (3) the following new paragraph:

“(4) in the case of a person who is not an organization, agency, or other entity, is excluded from paragraph (1) if the person has been excluded under section 1128A(b) of title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, is not the owner or a person who knows or should know of the action constituting the basis for the exclusion; or

“(ii) in an officer or managing employee (as defined in section 1126(b)) of such an entity;”.

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking “$2,000” and inserting “$10,000”;

(2) by inserting “; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs” after “false or misleading information was given”;

and

(3) by striking “twice the amount” and inserting “3 times the amount”.

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECTLY CLASSIFIED UNNECESSARY SERVICES.—Section 1128(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking “claiming” and inserting “claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,”;

(2) in subparagraph (C), by striking “or” at the end;

(3) in subparagraph (D), by striking “or” and inserting “and”;

and

(4) by inserting after subparagraph (D) the following new subparagraph:

“(E) is for a medical or other item or service that a person knows or should know is not medically necessary or;”.

(e) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1126(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking “the actual or estimated cost” and inserting “up to $10,000 for each instance”.

(f) IDENTIFICATION OF FRAUDULENT CLAIMS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 8115(a)(2), is amended by adding at the end the following new subparagraph:

“(B) by striking ‘‘knowingly’’ before ‘‘presents’’ each place it appears and inserting ‘‘knowingly gives or causes to be given’’.

(g) DEFINITION OF STANDARD.—Section 1128(i) (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

“(6) The term ‘should know’ means that a person, with respect to information—

“(A) acts in deliberate ignorance of the truth or falsity of the information; or

“(B) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1996.

SEC. 8133. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1128(b) (42 U.S.C. 1320a–7a(b)) is amended by adding at the end the following new paragraph:

“(3)(A) A person who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such document are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

“(I) $5,000, or

“(II) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1395mm(i)(6), (10), (11), or (12) of the Federal Hospital Insurance Trust Fund pursuant to section 1876(i)(6) of the Social Security Act (as defined in section 1126(b)(1)), for purposes of title XVIII, that an individual meets the requirements of section 1395mm(i)(6), (10), (11), or (12) of the Federal Hospital Insurance Trust Fund pursuant to section 1876(i)(6) of the Social Security Act (as defined in section 1126(b)(1)).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications given on or after the date of the enactment of this Act.

CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

SEC. 8141. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Section 63 of title 18, United States Code, is amended by adding at the end the following new paragraph:

“(1)(A) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice to defraud any Federal health care program, in connection with the delivery of or payment for health care benefits, items, or services, or

“(I) to defraud any Federal health care program, in connection with the delivery of or payment for health care benefits, items, or services, or

“(II) 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 Federal health care program in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

(3) For purposes of this section, the term ‘Federal health care program’ has the same meaning given such term in section 1128(f) of the Social Security Act.

(9) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(1)(C) of the Social Security Act, as added by section 8101(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 8142. FORFEITURES FOR FEDERAL HEALTH CARE OBLIGATIONS.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

“(6) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property,
real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a conspiracy to violate—

(i) section 1347 of this title; and

(ii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.

(c) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeiture, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services;

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to an investigation or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Program; and

(C) the compromise and payment of valid liens and mortgage claims on property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 8343. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A) of section 3141(a)(1) of title 18, United States Code, and amending—

(A) by inserting "or" at the end of paragraph (A) of section 3141(a) of title 18, United States Code, and amending—

(i) by inserting or amending—

(A) to defraud any Federal health care program in connection with the delivery of or payment for health care benefits, items, or services; or

(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property owned by, or under the custody or control of, any Federal health care program in connection with the delivery of or payment for health care benefits, items, or services.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:


1319. Theft or embezzlement in connection with health care

SEC. 8344. FRAUDULENT STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

1033. False statements relating to health care matters.

(1) Whoever, in any matter involving a Federal health care program, knowingly and willfully—

(A) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any materially false writing or document knowing the same to contain any material information that is false, fictitious, or fraudulent statement or entry,

shall be fined under this title or imprisoned not more than 5 years, or both.

(b) For purposes of this section, the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following:

1033. False statements relating to health care matters.

SEC. 8345. OBTURBATION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, as amended by adding at the end the following new section:

1518. Obstruction of criminal investigations of Federal health care offenses.

(1) Whoever willfully prevents, obstructs, misleads, orotherwise endeavors to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

(ii) as used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations, examinations, or inspections for violations of health care offenses.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:


SEC. 8346. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

669. Theft or embezzlement in connection with health care.

(1) Whoever willfully embezzles, steals, or otherwise willfully and unlawfully converts to his own use any moneys, funds, securities, premiums, credits, property, or other assets of a Federal health care program, as defined under this title or imprisoned not more than 10 years, or both.

(ii) as used in this section the term 'federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

669. Theft or Embezzlement in connection with Health Care.

SEC. 8347. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, as amended by adding at the end the following new subparagraph:

(2) a person or legal entity may possess or have care, custody, or control.

(b) A custodian of records may be required to give testimony concerning the production and authentication of such records.

(c) The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place, but the person serving the warrant shall not be required more than 500 miles distant from the place where the subpoena is served.

(d) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(e) A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

(f) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

(A) to defraud any Federal health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property owned by, or under the custody or control of, any Federal health care program in connection with the delivery of or payment for health care benefits, items, or services.

(ii) A subpoena issued under this section may be served by any person designated in the subpoena to serve it.

(iii) Service upon a natural person may be made by personal delivery of the subpoena to such person.

(3) Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to conduct such process.

(4) The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

(iii) no court may require the subpoenaed person to appear before the Attorney General to produce records, if so ordered,
to or give testimony required under subsection (a)(1)(B).

(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(4) All process in any such case may be served in any judicial district in which such person may be found.

(5) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section in determining the extent to which the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for non-disclosure of that production to the customer.

(e)(1) Health information about an individual that is disclosed under this section may not be used, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure to the patient, the physician-patient relationship, and to the treatment services.

(3) Upon the granting of such order, the court may impose appropriate safeguards against unauthorized disclosure.

(f) As used in this section the term "federal health care program" has the same meaning given such term in section 1128(b)(1).

(b) Clerical Amendment.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 the following new item:

§ 3486. Authorized investigative demands procedures.

(c) Conforming Amendment.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice" after "subpoena (issued under section 3486," after "subpoena.

CHAPTER 6—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 8231. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) Extension of Concurrent Authority to Investigate and Prosecute Fraud in Other Federal Programs.—Paragraph (3) of section 2134(b), as added by section 7001 of this Act, is amended—

(1) by striking "after the item relating to section 3405 the following new item:

§ 3486. Authorized investigative demand procedures.

(c) Conforming Amendment.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486," after "subpoena.

§ 3486. Authorized investigative demand procedures.

(b) Clarification of Exception for Ancillary Services.—(a) Repeal of Site-of-Service Requirement.—Section 1877 (42 U.S.C. 1395n) is amended—

(1) by amending paragraph (2) to read as follows:

(A) that are furnished generally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are under the supervision of the physician or of another physician in the group practice, and,

(b) by adding at the end of subsection (h) the following new paragraph:

(7) General Supervision.—An individual is considered to be under the 'general supervision' of a physician if the physician (or group practice of which the physician is a member) is legally responsible for the services performed by the individual and for ensuring that the individual meets licensure and certification requirements, if any, applicable to the licenses or certificates of the physician, regardless of whether or not the physician is physically present when the individual furnishes an item or service.

(2) Clarification of Treatment of Physician Owners of Group Practice.—Section 1877(b)(2)(B) (42 U.S.C. 1395n(b)(2)(B) is amended by striking "physician group practice" and inserting "physician, such group practice, or the physician owners of such group practice.

(c) Conforming Amendment.—Section 1877(b)(2) (42 U.S.C. 1395n(b)(2) is amended by amending the heading to read as follows: "An ancillary services furnished personally or through group practice.

(d) Clarification of Exception for Services Furnished in a Rural Area.—Paragraph

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SEC. 8201. REPEAL OF PHYSICIAN OWNERSHIP REFERRAL PROHIBITIONS BASED ON COMPENSATION ARRANGEMENTS.

(a) In General.—Section 1877(a)(2) (42 U.S.C. 1395n(a)(2)) is amended by striking "is—" and all that follows through "equity," and inserting the following: "is (except as provided in subsection (c) or (d) of section 1395n) an investment interest in the entity through equity.

(b) Conforming Amendments.—Section 1877 (42 U.S.C. 1395n) is amended as follows:

(1) In subsection (a)(1), by striking "(A) in the heading, by striking "TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS and inserting "WHERE FINANCIAL RELATIONSHIP EXISTS";

(2) In subsection (c)—

(A) by amending the heading to read as follows: "EXCEPTION FOR OWNERSHIP OR INVESTMENT INTEREST IN PUBLICLY TRADED SECURITIES AND MUTUAL FUNDS;" and

(B) by redesigning paragraph (4) as paragraph (7).

(2) In subsection (c)—

(A) by adding a new paragraph as follows:

(ii) at the option of the entity, procedures for acting to both ownership and compensation arrangement prohibitions and inserting "WHERE FINANCIAL RELATIONSHIP EXISTS";

(3) Any failure to obey the order of the court, including refusal by a person, including officers, agents, and employees, receiving a subpoena under this section in determining the extent to which the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for non-disclosure of that production to the customer.

(3) Upon the granting of such order, the court may impose appropriate safeguards against unauthorized disclosure.

(f) As used in this section the term "federal health care program" has the same meaning given such term in section 1128(b)(1).
(5) of section 1877(b) (42 U.S.C. 1395nn(b)), as transferred by section 8201(b)(3)(C), is amended—

(ii) is struck by inserting "an item or service" and inserting "a designated health service", and

(ii) by striking "the item or service" and inserting "the designated health service".

SEC. 8205. EFFECTIVE DATE.

Except as provided in section 8203(b), the amendments made by this subtitle shall apply to referrals made on or after the date of enactment of this Act, regardles of or not regulations are promulgated to carry out such amendments.

Subtitle D—Modification in Payment Policies

Regarding Graduate Medical Education

SEC. 8302. DIRECT GRADUATE MEDICAL EDUCATION.

(a) Weighting Factors for Residents.—

(i) In general.—Section 1886(h)(4)(C)(iv) (42 U.S.C. 1395ww(h)(4)(C)(iv)) is amended by striking "50" and inserting "0.25".

(ii) Effective date.—The amendment made by paragraph (1) shall apply with respect to cost reporting periods beginning on or after October 1, 1997.

(b) Limitation on aggregate number of full-time residents.—

Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new paragraph:

(F) Adjustments for certain fiscal years in payments for programs in allopathic and osteopathic medicine.—

(i) In general.—With respect to a cost reporting period, the Secretary shall in accordance with clause (ii) adjust the payments for approved medical residency training programs in the fields of allopathic medicine and osteopathic medicine if, in the fiscal year in which such cost reporting period begins, the number of full-time-equivalent residents determined under this paragraph with respect to all such programs exceeds the number of full-time-equivalent residents determined with respect to all such programs as of August 1, 1995.

(ii) Adjustment described.—Adjustments under clause (i) shall be made with respect to cost reporting periods such that the total amount of payments under paragraph (1) for the fiscal year involved does not exceed the amount that would have been paid under this subsection for such year if the number of full-time-equivalent residents determined under clause (i) for the year had not exceeded the number of full-time-equivalent residents with respect to all such programs as of August 1, 1995.

The Secretary may provide that approved medical residency training programs that reduced or did not expand the number of full-time-equivalent residents with respect to all such programs as of August 1, 1995, are not subject to the limitation made by paragraph (1) in the fiscal year for which such programs reduced or did not expand the number of full-time-equivalent residents with respect to all such programs as of August 1, 1995.

(1) by striking an "item or service" and inserting "a designated health service", and

(2) by striking "the item or service" and inserting "the designated health service".

SEC. 8303. INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) Multiyear Transition Regarding Percentages.—

6.7 for 1996 to 5.0 for 2001 and after—

number of full-time-equivalent residents determined under this paragraph for a cost reporting period shall not be subject to the adjustment described in clause (i).

(iv) EFFECTIVE DATE.—The adjustment described in clause (i) shall apply with respect to cost reporting periods beginning on or after October 1, 1995, and on or before September 30, 2002.

Subtitle E—Provisions Relating to Part A

CHAPTER 1—GENERAL PROVISIONS RELATING TO PART A

SEC. 8401. PPS HOSPITAL PAYMENT UPDATE. Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by inserting the following new subclauses (XII), (XIII), and (XIV) and inserting the following new subclauses:

'(XII) for fiscal year 1996 for hospitals in all areas, the market basket percentage increase minus 2.5 percentage points,' and

'(XIII) for fiscal years 1997 through 2002 for hospitals in all areas, the market basket percentage increase minus 2.0 percentage points,' and

'(XIV) for fiscal year 2003 and each subsequent fiscal year for hospitals in all areas, the market basket percentage increase minus 1.5 percentage points.'

SEC. 8402. PPS-EXEMPT HOSPITAL PAYMENTS. (a) UPDATE.—(1) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

'(A) in subsection (V) by striking `and' and inserting `and inserting',

and

'(B) by redesignating subsection (VI) as subsection (VII); and

(c) by inserting after subsection (V), the following new subsection:

'(VII) except as provided in clause (vi), for fiscal years 1996 through 2002, the market basket percentage increase plus the applicable reduction (as defined in clause (vii) of subparagraph (A) and subparagraph (B)), and

(2) SPECIAL RULES FOR CERTAIN HOSPITALS.—Section 1886(b)(3)(B)(XII) (42 U.S.C. 1395ww(b)(3)(B)(XII)) is amended by adding at the end the following new clause:

'(XIII) For purposes of clause (ii)(VI), the 'applicable percentage increase' for a hospital—

'(I) for a fiscal year for which the hospital's update adjustment percentage (as defined in clause (vii) of subparagraph (A)) is at least 10 percent, is the market basket percentage increase, and

'(II) for which 10 percent of the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available is less than the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, and

'(III) the 'applicable reduction' with respect to a hospital for a fiscal year is 2.5 percentage points, reduced by 0.25 percentage point for a hospital for the 12-month cost reporting period beginning during fiscal year 1994; or

for a hospital for the 12-month cost reporting period beginning during fiscal year 1995.

(b) TARGET AMOUNTS FOR REHABILITATION HOSPITALS AND LONG-TERM CARE HOSPITALS.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) by striking subparagraph (A), in the matter preceding clause (i), by striking '(and E)' and inserting 'and (E)', and

(2) by adding at the end the following new subparagraph:

'(F) in the case of a rehabilitation hospital (or unit thereof) (as described in clause (ii) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1995, the target amount determined under this paragraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph), and

(II) in the case of a hospital which first receives payments under this section on or after October 1, 1995, such target amount may not be greater than 130 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1995.

1. PPS-EXEMPT HOSPITALS.

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

'(A) in subparagraph (A), by striking `and' and inserting `and inserting',

and

'(B) by redesignating subsection (X) as subsection (XI); and

(c) by inserting after subsection (X), the following new subsection:

'(XII) for fiscal year 1996 for hospitals in all areas, the market basket percentage increase minus 2.5 percentage points, reduced by 0.25 percentage point for a hospital for the 12-month cost reporting period beginning during fiscal year 1994; or

for a hospital for the 12-month cost reporting period beginning during fiscal year 1995.

(b) TARGET AMOUNTS FOR REHABILITATION HOSPITALS AND LONG-TERM CARE HOSPITALS.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) by striking subparagraph (A), in the matter preceding clause (i), by striking '(and E)' and inserting 'and (E)', and

(2) by adding at the end the following new subparagraph:

'(F) in the case of a rehabilitation hospital (or unit thereof) (as described in clause (ii) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1995, the target amount determined under this paragraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph), and

(iii) in the case of a hospital which first receives payments under this section on or after October 1, 1995, such target amount may not be greater than 130 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1995.

1. PPS-EXEMPT HOSPITALS.

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

'(A) in subparagraph (A), by striking `and' and inserting `and inserting',

and

'(B) by redesigning subsection (X) as subsection (XI); and

(c) by inserting after subsection (X), the following new subsection:

'(XII) for fiscal year 1996 for hospitals in all areas, the market basket percentage increase minus 2.5 percentage points, reduced by 0.25 percentage point for a hospital for the 12-month cost reporting period beginning during fiscal year 1994; or

for a hospital for the 12-month cost reporting period beginning during fiscal year 1995.
(1) **CONTRIBUTION OF CURRENT REDUCTIONS.**—Section 1886(g)(3)(A) (42 U.S.C. 1395ww(g)(3)(A)) is amended in the second sentence—

(a) by striking “through 1999” and inserting “through 2000”;

(b) by inserting after “10 percent reduction” the following: “(or a 15 percent reduction in the case of payments during fiscal years 1996 through 2000)”.

(2) **REDUCTION IN BASE PAYMENT RATES.**—Section 1886(g)(3)(B) (42 U.S.C. 1395ww(g)(3)(B)) is amended by adding, at the end of the following new paragraph:

“**(B) by inserting after “10 percent reduction” the following: “(or a 15 percent reduction in the case of payments during fiscal years 1996 through 2000)”**.

(3) **HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-RELATED TAX COSTS.**—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(a) by redesignating subparagraph (D) as subparagraph (E), and

(b) by inserting after subparagraph (B) the following subparagraph:

“**(D) For discharges occurring after September 30, 1995, such system shall provide for an adjustment in an amount equal to the amount determined under clause (iv) for capital-related tax costs for each hospital that is eligible for such adjustment**.

(i) Subject to clause (iii), a hospital is eligible for an adjustment under this subparagraph, with respect to discharges occurring in a fiscal year, if the hospital—

(I) is a hospital that may otherwise receive payments under subsection (a) and (b) if the hospital complies with such requirements as are applicable to such payments;

(II) incurs capital-related tax costs for the fiscal year;

(iii) The minimum payment level for qualifying hospitals shall be 85 percent.

(II) A hospital shall be considered to meet the requirement of clause (i) if the hospital completes the project involved no later than the end of the hospital’s last cost reporting period beginning after October 1, 2001, if—

(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995, and

(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

(III) Offsetting amounts, as described in 42 CFR 412.348(b)(ii), shall apply except that subparagraph (B)(iii) shall include the provision of exception payments under the special exception process provided under section 1886(g)(3)(D)(iv) (as in effect on September 3, 1995), except that the Secretary shall revise such process as follows:

(I) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under 42 CFR 412.348(b) (as in effect on September 3, 1995), except that the Secretary shall revise such process as follows:

(I) The system shall provide that the Federal capital-related tax costs of a hospital to the extent that such costs are based on tax rates and amounts that exceed those for similar commercial properties.

(II) The system shall provide that the Federal capital-related tax costs of a hospital to the extent that such costs are based on tax rates and amounts that exceed those for similar commercial properties.

(III) The system shall provide that the Federal capital-related tax costs of a hospital to the extent that such costs are based on tax rates and amounts that exceed those for similar commercial properties.

(IV) A hospital described in this clause with respect to a cost reporting period is a subsection (d) hospital meeting the following requirements:

(I) Not less than 60 percent of the hospital’s patient days during the most recent cost reporting period for which data is available are attributable to inpatients entitled to benefits under part A.

(ii) The hospital does not receive any additional payment amount under section 1886(f) (relating to payments for hospitals serving a disproportionate number of low-income patients) with respect to discharges occurring during the fiscal year.

(iii) The hospital does not receive any additional payment amount under subsection (d)(5)(B) (relating to payment for direct medical education costs) or subsection (h) (related to payment for direct medical education costs).

(IV) In the case of a hospital located in a rural area, the hospital has more than 100 beds.

**CHAPTER 2—PAYMENTS TO SKILLED NURSING FACILITIES**

Subchapter A—Prospective Payment System

Section 8405. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES

Title Xviii (42 U.S.C. 1395 et seq.) is amended by adding the following new section after section 1886:

“**PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.**

(a) **Establishment of System.**—Notwithstanding any provision of this title, the Secretary shall establish a prospective payment system under which fixed payments for episodes of care shall be made, instead of payments determined under section 1886, section 1888, or section 1888A, for skilled nursing facilities for all extended care services furnished through the period of care that begins on or after October 1, 1997, and is treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced by—

(I) 75 percent for cost reporting periods beginning during fiscal year 1997;

(II) 60 percent for cost reporting periods beginning during fiscal year 1997, and

(III) 50 percent for subsequent cost reporting periods.

(b) **Effective Date.**—The amendment made by subsection (a) shall apply to hospital cost reporting periods beginning on or after October 1, 1995.

SEC. 8406. INCREASE IN UPDATE FOR CERTAIN HOSPITALS WITH A HIGH PROPORTION OF MEDICARE PATIENTS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsections (b) and (c)(1) of section 8002, is amended by adding at the end the following sentence:

“**(ii)(I) For purposes of subsection (d), in the case of a medicare-dependent hospital described in subsection (c)(ii), the applicable percentage increase otherwise determined under subparagraph (B) shall be increased by—

(I) 0.5 percentage points for discharges occurring during cost reporting periods beginning during fiscal year 1996, and

(II) 0.3 percentage points for discharges occurring during cost reporting periods beginning during fiscal year 1997.**

(a) **Hospital described in this clause.**—A hospital described in this clause with respect to a cost reporting period is a subsection (d) hospital meeting the following requirements:

(I) Not less than 60 percent of the hospital’s patient days during the most recent cost reporting period for which data is available are attributable to inpatients entitled to benefits under part A.

(ii) The hospital does not receive any additional payment amount under section 1886(f) (relating to payments for hospitals serving a disproportionate number of low-income patients) with respect to discharges occurring during the fiscal year.

(iii) The hospital does not receive any additional payment amount under subsection (d)(5)(B) (relating to payment for direct medical education costs) or subsection (h) (related to payment for direct medical education costs).

(IV) In the case of a hospital located in a rural area, the hospital has more than 100 beds.

**SEC. 8407. SUBMISSION OF AMENDMENT.**

The amendment made by section 1886(b)(3) shall take effect as if inserted in section 1886(b)(3) on October 1, 1997.
mix, patient acuity, and such other factors as the Secretary determines are appropriate. The prospective payment system shall apply for cost reporting periods (or portions of cost reporting periods) beginning after October 1, 1997.

"(b) 90 PERCENT OF LEVELS OTHERWISE IN EF-FECT.—The Secretary shall establish the pro-
spective payment amounts under subsection (a) at levels such that, in the Secretary's best estimate, the amount of total payments under this title shall not exceed 90 percent of the amount of payments that would have been made under this title for all routine and non-routine services and capital expenditures if this section had not been enacted.

"(c) ADJUSTMENT IN RATES TO TAKE INTO AC-COUNT BENEFICIARY COST-SHARING.—The Sec-
retary shall reduce the prospective payment
rates established under this section to take into
account the beneficiary contribution amount re-
quired the following section 1813(b)(2).

Subchapter B—Interim Payment System

SEC. 8411. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) CLARIFICATION OF DEFINITION OF ROUTINE
SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the "routine service costs" of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment amounts under section 1888A.

(b) CONFIRMING AMENDMENT.—Section 1888
(42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE.

SEC. 8412. COST-EFFECTIVE MANAGEMENT OF
COVERED NON-ROUTINE SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1888A the following new section:

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or res-
piratory therapy services, or supplies and equip-
ment, directly related to such services and
therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (includ-
ing enteral and parenteral nutrients, sup-
plies, and equipment).

"(E) Inpatient rehabilitation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE IN-
CREASE.—The "SNF market basket percentage in-
crease" for the fiscal year ending during the
year under section 1888(a).

"(3) STAY.—The term 'stay', means, with re-
spect to an individual who is a resident of a
skilled nursing facility, a period of continuous
days during which the facility provides ex-
tended care services for which payment may be
made under this title for the individual during
the individual’s spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES BEGINNING IN FISCAL YEAR 1996.

"(1) IN GENERAL.—The payment method estab-
lished under this section shall apply with re-
spect to covered non-routine services furnished during cost reporting periods (or portions of cost reporting periods) beginning on October 1, 1995.

"(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the per stay amount applicable to the facility under subsection (d) for the period; and

"(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—(A) Clarification relating to Part A Billing.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service if such facility furnished to all residents of the facility to whom the facility furnished the item or service was furnished.

"(B) PART B BILLING.—In the case of a cov-
ered non-routine service other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(3)(f) furnished to an individual who (at the time the services are furnished) is a resident of a skilled nursing facility who is entitled to coverage under part B of title XIX (42 U.S.C. 1396 et seq.) for such service, the facility shall submit a claim for payment for such service (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with the facility, by the beneficiary, or by any other contracting or consulting arrangement, or otherwise).

"(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a period beginning during a fiscal year in excess of an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce the aggregate payments described in paragraph (2) by an amount per stay equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirements of this subparagraph.

"(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the per stay amount applicable to the facility under subsection (d) for the period; and

"(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—(A) Clarification relating to Part A Billing.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service if such facility furnished to all residents of the facility to whom the facility furnished the item or service was furnished.

"(B) PART B BILLING.—In the case of a cov-
ered non-routine service other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(3)(f) furnished to an individual who (at the time the services are furnished) is a resident of a skilled nursing facility who is entitled to coverage under part B of title XIX (42 U.S.C. 1396 et seq.) for such service, the facility shall submit a claim for payment for such service (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with the facility, by the beneficiary, or by any other contracting or consulting arrangement, or otherwise).

"(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a period beginning during a fiscal year in excess of an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce the aggregate payments described in paragraph (2) by an amount per stay equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirements of this subparagraph.

"(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the per stay amount applicable to the facility under subsection (d) for the period; and

"(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—(A) Clarification relating to Part A Billing.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service if such facility furnished to all residents of the facility to whom the facility furnished the item or service was furnished.

"(B) PART B BILLING.—In the case of a cov-
ered non-routine service other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(3)(f) furnished to an individual who (at the time the services are furnished) is a resident of a skilled nursing facility who is entitled to coverage under part B of title XIX (42 U.S.C. 1396 et seq.) for such service, the facility shall submit a claim for payment for such service (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with the facility, by the beneficiary, or by any other contracting or consulting arrangement, or otherwise).
services were furnished by the facility, by others under arrangement with them made by the facility under arrangement with them furnished by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise)].

2. The average number of days per stay for all residents of the skilled nursing facility receiving extended care services furnished during the fiscal year beginning under section 1812(a)(2).

3. (F) **INTENSIVE NURSING OR THERAPY NEEDS.**—

(1) **IN GENERAL.**—In applying subsection (b) to covered services furnished during a stay beginning during a cost reporting period to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay amount shall equal the per stay amount determined under subsection (d)(1)(A).

(2) **PER STAY AMOUNT FOR INTENSIVE NEED RESIDENTS.**—Upon the implementation of the payment method established under this section, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a per stay amount for residents of a skilled nursing facility who require intensive nursing or therapy services.

4. **(G) BUDGET NEUTRALITY.**—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services during the cost reporting period at a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during the cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

5. **(H) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.**—The Secretary shall establish an appropriate adjustment factor in which to apply this section, taking into account the purposes of this section, to non-routine costs of a skilled nursing facility for which payment is made for routine service costs during the cost reporting period on the basis of prospective payments under section 1888(d).

6. **(I) SPECIAL RULE FOR X-RAY SERVICES.**—Before making payments under subsection (b) in a cost reporting period for a physician's service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.

7. **(J) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.**—The prospective payment system established under section 1889 shall reflect the payment method established under this section for covered non-routine services.

8. **(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY PAUSES IN INCREASES.**

(1) **BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.**—

(A) **IN GENERAL.**—The last sentence of section 1888(a)(2) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during reporting periods which began during fiscal year 1994 or fiscal year 1995)."

(B) **NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.**—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) **PAYMENTS TO LOW MEDI-CARE VOLUME SKILLED NURSING FACILITIES.**—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during the cost reporting period that began during fiscal year 1994 or fiscal year 1995.

9. **(b) BASING 1996 LIMITS ON NEW DEFINITION OF ROUTINE COSTS.**—The Secretary of Health and Human Services shall not consider the new definition of routine service costs under section 1888(e) of the Social Security Act, as added by section 8411, in determining the routine per diem cost limits under section 1888(a) for fiscal year 1996 and each fiscal year thereafter.

10. **(C) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.**—Section 1888(c) (42 U.S.C. 1395y(c)) is amended—

(A) by striking "(c) The Secretary and inserting "(c) The Secretary and":

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

(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period ending beginning after October 1, 1996, to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

(A) for cost reporting periods beginning during fiscal year 1996, the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under paragraph (A) for the preceding fiscal year, increased by the SNF market basket percentage increase (as defined in section 1888(a)(2)) for each fiscal year;

(C) by striking the period at the end of paragraph (B) and in subsection for cost reporting periods beginning during fiscal year 1994 increased (on a compounded basis) by the SNF market basket percentage increase (as defined in section 1888(a)(2)) for each fiscal year; and

(D) by striking the period at the end of paragraph (C) and substituting "or" for the period at the end of paragraph (C).
of cost reporting periods occurring during fiscal years 1996 through 2002.”

SEC. 8416. MEDICAL REVIEW PROCESS.

In order to ensure that Medicare beneficiaries are furnished with extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this subchapter on the quality of extended care services furnished to Medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 8417. REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.

Not later than October 1, 1997, the Medicare Payment Review Commission shall submit to Congress a report on the system under which payment methodology is established under section 1888A of the Social Security Act (as added by section 8412) on the payments for, and the quality of, extended care services furnished by Medicare.

Chapter 3—Other Provisions

RELATING TO PART A

SEC. 8421. PAYMENTS FOR HOSPICE SERVICES.

Section 1844(h)(1)(A) (42 U.S.C. 1395w(4)(d)(3)) is amended to read as follows:

“(1) UPDATE.—(A) IN GENERAL.—Section 1848(4)(3) (42 U.S.C. 1395w-(4)-(d)(3)) is amended to read as follows:

“(1) UPDATE.—(A) IN GENERAL.—Unless Congress otherwise provides, subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

(i) 1 plus the Secretary’s estimate of the percentage change in the physician work relative value unit; minus 1 and multiplied by 100.

(ii) 1 plus the Secretary’s estimate of the percentage change in the non-routine service non-pass-through.

(iii) access to services;”.

(iv) by striking clauses (iv), (v), and (vi); and

(v) by striking the last sentence.

(2) SPECIFICATION OF GROWTH RATE.—Section 1848(4)(3) (42 U.S.C. 1395w-(4)-(d)(3)) is amended—

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

(ii) by striking the period at the end of clause (iv) and inserting “;”;

(iii) by adding at the end the following new clause:

“(v) changes in volume; intensity services.”

(C) Section 1848(2)(C)(1) (42 U.S.C. 1395w-(d)-(2)(C)) is further amended—

(i) by striking subparagraphs (C), (D), and (E);

(ii) by redesignating subparagraph (F) as subparagraph (C) and

(iii) in subparagraph (C), as redesignated, by striking “(or updates)” in the conversion factor (or factors) and inserting “in the conversion factor.”

(B) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—(1) IN GENERAL.—Section 1848(4)(3) (42 U.S.C. 1395w-(4)-(d)(3)) is amended—

(iv) by striking paragraph (2), and

(v) by striking the period at the end of clause (5) and inserting the following:

“(b) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—(1) IN GENERAL.—Section 1848(4)(3) (42 U.S.C. 1395w-(4)-(d)(3)) is amended—

(ii) by striking clause (v) and inserting the following:

“(v) changes in volume; intensity services.”

SEC. 8422. PERMANENT EXTENSION OF HEMO-DIALYSIS PASS-THROUGH.

Effective as if included in the enactment of OBRA-1989, section 6011(d) of such Act (as amended by section 13505 of OBRA-1993) is amended by striking “and shall expire September 30, 1994”.

Subtitle F—Provisions Relating to Part B

CHAPTER 1—PAYMENT REFORMS

SEC. 8501. PAYMENTS FOR PHYSICIANS’ SERVICES.

(a) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(i) by striking “(or updates)” in the conversion factor (or factors) and inserting “in the conversion factor.”

(ii) by striking “(beginning with 1991) and inserting “(beginning with 1996)”;

(iii) by striking the period at the end of clause (vii) and inserting “;”; and

(iv) by inserting a clause (viii) as follows:

“(viii) changes in volume; intensity services.”

(C) Section 1848(2)(C)(1) (42 U.S.C. 1395w-(d)-(2)(C)) is amended—

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

(ii) by striking the period at the end of clause (iv) and inserting “;”;

(iii) by adding at the end the following new clause:

“(v) changes in volume; intensity services.”

(C) Section 1848(2)(C)(1) (42 U.S.C. 1395w-(d)-(2)(C)) is amended—

(i) by striking “(and)” at the end of clause (iii);
minus 1 and multiplied by 100.

(3) DEFINITIONS.—In this subsection:

(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—‘‘Physicians’ services’’ includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician’s office, but does not include services furnished to a private plan enrollee.

(B) PRIVATE PLAN ENROLLEE.—The term ‘‘private plan enrollee’’ each place such term appears and in "sustainable growth rate for fiscal year 1997''.

(C) E STABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.Ð Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395m(a)(9)(C)) is amended by adding at the end the following new subparagraph:

(4) by redesignating clause (iv) as clause (v);

(5) for each of the years 1996 through 2002, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year reduced by the applicable percentage described in subparagraph (D) (but in no case may the amount determined under this clause be less than 70 percent of such national limited payment rate); and

(D) APPLICABLE PERCENTAGE DESCRIBED.—In clause (v) of subparagraph (C), the ‘‘applicable percentage’’ with respect to a year described in such clause is—

(i) for 1996, 20 percent,

(ii) for 1997, 211% percent,

(iii) for 1998, 231% percent,

(iv) for 1999, 25 percent,

(v) for 2000, 261% percent,

(vi) for 2001, 281% percent,

(vii) for 2002, 30 percent.

SEC. 8506. ENSURING PAYMENT FOR PHYSICIAN AND NURSE FOR JOINTLY FURNISHED ANESTHESIA SERVICES.

(a) PAYMENT FOR JOINTLY FURNISHED SINGLE CASE.Ð

(1) PAYMENT TO PHYSICIAN.ÐSection 1848(a)(4) (42 U.S.C. 1395w±4(a)(4)) is amended by adding at the end the following new subparagraph:

(4) by redesignating clause (iv) as clause (v);

(5) for each of the years 1996 through 2002, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year reduced by the applicable percentage described in subparagraph (D) (but in no case may the amount determined under this clause be less than 70 percent of such national limited payment rate); and

(D) APPLICABLE PERCENTAGE DESCRIBED.—In clause (v) of subparagraph (C), the ‘‘applicable percentage’’ with respect to a year described in such clause is—

(i) for 1996, 20 percent,

(ii) for 1997, 211% percent,

(iii) for 1998, 231% percent,

(iv) for 1999, 25 percent,

(v) for 2000, 261% percent,

(vi) for 2001, 281% percent,

(vii) for 2002, 30 percent.

(b) OXYGEN AND OXYGEN EQUIPMENT.Ð

(iii) for 1998, 231% percent,
(iv) Notwithstanding section 1836(a)(1), in the case of an individual whose modified adjusted gross income for a taxable year ending with or within a calendar year for purposes of this subsection as follows:

(a) If the amount initially determined by the Secretary under paragraph (3) was not less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

(b) If the amount initially determined by the Secretary under paragraph (3) was less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

(ii) Interest shall not be imposed under this subparagraph if the amount of the individual's modified adjusted gross income provided by the individual under subparagraph (B) of paragraph (3) for the taxable year involved, and the amount of the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

(iii) Interest shall not be imposed under this subparagraph if the amount of the individual's modified adjusted gross income provided by the individual under subparagraph (B) of paragraph (3) for the taxable year involved, and the amount of the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

(iv) Notwithstanding section 1836(a)(1), in the case of an individual whose modified adjusted gross income for a taxable year ending with or within a calendar year for purposes of this subsection as follows:

(a) If the amount initially determined by the Secretary under paragraph (3) was not less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

(b) If the amount initially determined by the Secretary under paragraph (3) was less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

(ii) Interest shall not be imposed under this subparagraph if the amount of the individual's modified adjusted gross income provided by the individual under subparagraph (B) of paragraph (3) for the taxable year involved, and the amount of the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

(iii) Interest shall not be imposed under this subparagraph if the amount of the individual's modified adjusted gross income provided by the individual under subparagraph (B) of paragraph (3) for the taxable year involved, and the amount of the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.
individual is subject to an increase in the monthly premium under section 1839 pursuant to subsection (h) of such section (or in determining the amount of such increase) is too low and results in a premium not being deducted," before "the may)."

(c) REPORTING REQUIREMENTS FOR SECRETARY OF THE TREASURY.

(1) IN GENERAL.—Subsection (I) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and returns and return information with respect to a taxpayer who is required to pay a monthly premium under section 1839 of the Social Security Act). Such return information shall be limited to—

(i) taxpayer identity information with respect to such taxpayer,

(ii) the filing status of such taxpayer,

(iii) the adjusted gross income of such taxpayer,

(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911,

(v) the interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1 to the extent such information is available, and

(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available.

(2) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Health Care Financing Administration only for the purposes of, and to the extent necessary in, establishing the appropriate monthly premium under section 1839 of the Social Security Act.

(2) CONFORMING AMENDMENT.—Paragraphs (3) and (4) of section 6103(g) of such Code are each amended by striking "(14), or (15)" each place it appears and inserting "(14), or (15)".

(3) EFFECTIVE DATE.—

(a) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning—

(i) January 1997.

(b) INFORMATION FOR PRIOR YEARS.—The Secretary of Health and Human Services may request information under section 6103(f)(15) of the Social Security Act (as added by section 8102 of the Internal Revenue Code of 1986 relating to confidentiality and disclosure of returns and return information with respect to a taxpayer) on or before December 31, 1993.

Subtitle G—Provisions Relating to Parts A and B

CHAPTER 1—PAYMENTS FOR HOME HEALTH SERVICES

SEC. 8001. PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title X VIII (42 U.S.C. 1395x et seq.), as amended by section 8102, is amended by adding at the end the following new section:

PAYMENT FOR HOME HEALTH SERVICES

"Sec. 1849. (a) In General.—"Subject to subsection (c), the Secretary shall make per visit payments beginning with fiscal year 1997 to a home health agency, in accordance with this section for each type of home health service described in paragraph (2) furnished to an individual who at the time the service is furnished is under the care of the home health agency under this title (without regard to whether or not the item or service was furnished by the agency or by others under arrangement with the agency, including, but not limited to, contracting or consulting arrangement, or otherwise).

(2) TYPES OF SERVICES.—The types of home health services described in this paragraph are the following:

(A) Part-time or intermittent nursing care provided by a registered professional nurse.

(B) Physical therapy.

(C) Occupational therapy.

(D) Speech-language pathology services.

(E) Medical social services under the direction of a physician.

(3) Amounts permitted in regulations, part-time or intermittent services of a home health aide who has successfully completed a training program approved by the Secretary.

(4) RATE PER VISIT FOR EACH TYPE OF SERVICES.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), establish a per visit payment rate for each type of home health service described in subsection (a)(2). Such rate shall be equal to the national per visit payment rate determined under paragraph (2) for each such type, except that the labor-related portion of the rate shall be adjusted by the area wage index applicable under section 1866(d)(3)(E) for the area in which the agency is located (as determined without regard to any reclassification of the area under section 1866(d)(6)(B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under section 1866(d)(10) for cost reporting periods beginning on or after January 1, 1995).

(2) NATIONAL PER VISIT PAYMENT RATE.—The national per visit payment rate for each type of service described in subsection (a)(2) is—

(A) for fiscal year 1997, is an amount equal to the national average amount paid per visit under this title to home health agencies for such type of service during the most recent 12-month period ending on or before June 30, 1994; and

(B) for each subsequent fiscal year, is an amount equal to the national average amount paid per visit under this title to home health agencies for such type of service during the most recent 12-month period ending on or before June 30, 1994.

(3) REBASING OF RATES.—The Secretary shall adjust the national per visit payment rates under this subsection for cost reporting periods beginning on or before December 31, 1996, and every 5 years thereafter, to reflect the most recently available data.

(4) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—This subsection means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and adjusted with respect to the type of home health services described in subsection (a)(2) in the same manner as the market basket percentage increase for the subsequent fiscal year minus 2.0 percentage points.

(4) October 1, 1994.

(5) TREATMENT OF EPISODES SPANNING COST REPORTING PERIODS.—The Secretary shall provide for such rules as the Secretary considers appropriate regarding the treatment of episodes under this paragraph which begin during a cost reporting period and end in a subsequent cost reporting period.

(6) EXCLUSIONS AND EXCEPTIONS.—The Secretary may provide for exceptions to the limits established under this paragraph for a fiscal year as the Secretary deems appropriate to the extent such exceptions and exceptions do not result in greater payments under this title than the exceptions and exclusions provided under section 1861(v)(1)(L)(iii). In the fiscal year 1994, increased by the home health market basket percentage increase for the fiscal year involved (as defined in subsection (b)(4)(A)).

(7) RECONCILIATION OF AMOUNTS.—PAYMENTS IN EXCESS OF APPROVED LIMITS.—Subject to subparagraph (B), if a home health agency has received aggregate per visit payments under

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subsection (a) for a fiscal year in excess of the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall adjust payments under this section to the home health agency in respect to such home health agency for such fiscal year, the Secretary considers appropriate (including on an installment basis) to recapture the amount of such excess.

(2) EXCEPTION FOR HOME HEALTH SERVICES FurnISHED OVER A PERIOD GREATER THAN 165 DAYS.

subsection (a) for a fiscal year in an amount in excess of the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall pay such home health agency a bonus payment equal to 50 percent of the difference between such amounts in the following fiscal year, except that the bonus payment may not exceed 5 percent of the aggregate per visit payments made to the agency for the year.

(II) INSTALLMENT BONUS PAYMENTS.—The Secretary may make installment payments during a fiscal year to a home health agency based on the amount that the agency would be eligible to receive with respect to such fiscal year.

(d) MEDICAL REVIEW PROCESS.—The Secretary shall implement a medical review process (with a particular emphasis on fiscal years 1997 and 1998) for the system of payments described in this section that shall provide an assessment of the adequacy of such payments. The medical review process shall be based on low-cost episodes (as defined by the Secretary under section (c)(3)(C) and cases described in subsection (c)(2)(B) and shall require recertification by intermediaries at 60 and 165 days into an episode described in subsection (c)(1)(D).

(II) ADJUSTMENT OF PAYMENTS TO AVOID CIRCUMVENTION OF LIMITS.—

(1) IN GENERAL.—The Secretary shall provide for appropriate adjustments to payments to home health agencies under this section to ensure that agencies do not circumvent the purpose of this section by discharging patients to another home health agency or a similar provider.

(II) QUALITY MONITORING OF HOME HEALTH CARE.—The Secretary shall monitor the quality of home health care services furnished under this section that shall include recommendations regarding the following:

(1) Case-mix and volume increases.

(2) Quality monitoring of home health agency practices.

(3) Whether a capitated payment for home care patients receiving care during a continuous period exceeding 165 days is warranted.

(4) Whether public providers of service are adequately reimbursed.

(5) On the adequacy of the exemptions and exceptions to limits provided under subsection (c)(1)(E).

(6) The appropriateness of the methods provided under this section to adjust the per episode limits and the extent to which medical records updates to reflect changes in the mix of services, number of visits, and assignment to case categories to reflect changes in the mix of home health care services provided.

(II) THE GEOGRAPHIC AREAS USED TO DETERMINE THE PER EPISODE LIMITS.

(II) PAYMENTS FOR PROSTHETICS AND ORTHOTICS UNDER PART A.—Section 1814(k) (42 U.S.C. 1395f(k)) is amended—

(A) inserting "and orthotics" after "durable medical equipment"; and

(ii) by inserting "and 1834(h), respectively" after "1834(a)(1)".

(B) CONFORMING AMENDMENTS.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by section 8142(b)(1), is amended—

(II) THE MEDICAL REVIEW PROCESS.

(II) THE GEOGRAPHIC AREAS USED TO DETERMINE THE PER EPISODE LIMITS.

(f) SPECIAL RULE FOR CHRISTIAN SCIENCE PRACTITIONERS.—(1) PAYMENT PERMITTED FOR SERVICES.—Notwithstanding any other provision of this title, payment shall be made under this title for home health services furnished to an individual on or after a continuous period exceeding 165 days.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply to services furnished during cost reporting periods which begin after the earlier of—

(A) the date on which the Secretary establishes the payment methodology and the certification criteria described in paragraph (1), or

(B) July 1, 1996.

(g) REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.—During the first 3 years in which payments are made under this section, the Medicare Payment Review Commission shall annually submit a report to Congress on the effectiveness of the methodology established under this section that shall include recommendations regarding the following:

(1) Case-mix and volume increases.

(II) QUALITY MONITORING OF HOME HEALTH CARE SERVICES.

(II) THE GEOGRAPHIC AREAS USED TO DETERMINE THE PER EPISODE LIMITS.

(H) MEDICAL REVIEW PROCESS.

(II) THE GEOGRAPHIC AREAS USED TO DETERMINE THE PER EPISODE LIMITS.
(d) Effect Date.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1996.

SEC. 8602. MAINTAINING SAVINGS RESULTING FROM MEDICARE PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) Basis for Determination.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services, due to the insolvenecy or bankruptcy of the employer or plan.

(b) Extension of Claims Filing Period.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

``(v) Claims-filing period.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where payment is requested by a third-party administrator and the United States or the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 36-month interval commensurate with the delivery of quality home health services.''

PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS

SEC. 8603. EXTENSION OF WAIVER OF PRESUMPTION OF LACK OF KNOWLEDGE OF EXCLUSION FROM COVERAGE FOR HOME HEALTH AGENCIES.

Section 1895(g), as amended by section 426(c) of the Medicare Catastrophic Coverage Act of 1988 and section 4207(b)(3) of the OBRA–1990 (as renumbered by section 160(c) of the Social Security Act Amendments of 1994), is amended by striking “December 31, 1995” and inserting “September 30, 1996.”

SEC. 8604. EXTENSION OF PERIOD OF HOME HEALTH CERTIFICATION

Section 1891(c)(2)(A) (42 U.S.C. 1395bb(c)(2)(A)) is amended—

(1) by striking “15 months” and inserting “36 months”;

(2) by striking the second sentence and inserting the following: “The Secretary shall establish a frequency of home health certifications within this 36-month interval commensurate with the need to assure the delivery of quality home health services.”

CHAPTER 3—OTHER ITEMS AND SERVICES

SEC. 8621. MEDICARE COVERAGE OF CERTAIN ANTI-CANCER DRUG TREATMENTS.

(a) Coverage of Certain self-Administered Anticancer Drugs.—Section 1861(s)(2)(Q) (42 U.S.C. 1395x(s)(2)(Q)) is amended—

(1) by striking ``(Q)'' and inserting ``(Q)(i)'';

(2) by striking the semicolon at the end and inserting “;'';

(3) by striking the colon at the end and inserting “;'';

(4) by adding at the end the following new clause:

``(ii) by an individual described in section 1861(s)(2)(Q)''.

(b) Effect of Amendment.—The amendments made by this section shall apply to drugs furnished on or after the date of the enactment of this Act.
including prosthetic devices and orthotics.

(C) Extended care services (for inpatients of skilled nursing facilities).

(D) Hospice care.

(E) Physicians’ services (including services and supplies described in section 1861(s)(2)(A)) and other health care professionals (including podiatrists, nurse practitioners, physician assistants, and clinical psychologists) for which separate payment is made under this title.

(F) Outpatient hospital services and ambulatory surgical services.

(G) Durable medical equipment and supplies, including prosthetic devices and orthotics.

(H) Diagnostic tests (including clinical laboratory services and x-ray services).

(I) Other items and services.

(2) Classification of items and services.—The Medicare program shall classify each type of item and service covered by Medicare and subject to separate payment under this title into one of the sectors specified in paragraph (1). After publication of such classification under subsection (e)(1), the Secretary is not authorized to make substantive changes in such classification.

(c) Allotment.—

(1) Allotments for each sector.—For purposes of this section, subject to subsection (g)(1), the allotment for a sector of Medicare services for a fiscal year is equal to the product of—

(A) the total allotment for the fiscal year established under paragraph (2), and

(B) the allotment proportion (specified under paragraph (3)) for the sector and fiscal year involved.

(ii) The total allotment for the fiscal year is made under this title.

(iii) The baseline-projected Medicare expenditures (as determined under subparagraph (B)) for the sector for the fiscal year, to which the payments to be made under title XIX of the Act are applicable and are included in the MedicarePlus program under part C.

(iv) In making the estimate under clause (ii), the Secretary shall take into account estimated enrollment and demographic profile of individuals electing MedicarePlus products.

(B) Medicare benefit budget.—For purposes of this subsection, subject to subparagraph (C), the ‘medical benefit budget’—

(i) for fiscal year 1996 is $194.2 billion;

(ii) for fiscal year 1997 is $206.3 billion;

(iii) for fiscal year 1998 is $227.8 billion;

(iv) for fiscal year 1999 is $229.2 billion;

(v) for fiscal year 2000 is $247.2 billion;

(vi) for fiscal year 2001 is $266.0 billion;

(vii) for fiscal year 2002 is $289.0 billion; and

(viii) for a subsequent fiscal year is equal to the Medicare benefit budget under this subparagraph for the preceding fiscal year multiplied by the product of (I) 1.05, and (II) 1 plus the annual percentage increase in the average number of Medicare beneficiaries from the previous fiscal year to the fiscal year involved.

(C) Medicare allotment proportions defined.—

(A) In general.—For purposes of this section and with respect to a sector of Medicare services for a fiscal year, the term ‘Medicare allotment proportion’ means—

(i) the baseline-projected Medicare expenditures (as determined under subparagraph (B)) for the sector for the fiscal year, to which the payments to be made under title XIX of the Act are applicable and are included in the MedicarePlus program under part C.

(ii) the sum of such baseline expenditures for all such sectors for the fiscal year.

(B) Medicare services.—In this paragraph, the ‘baseline projected Medicare expenditures’ for a sector of Medicare services—

(i) for fiscal year 1996 is equal to fee-for-service expenditures for such sector during fiscal year 1995, increased by the baseline annual growth rate for such sector for fiscal year 1996 (as specified in table in subparagraph (C)); and

(ii) for a subsequent fiscal year is equal to the baseline projected Medicare expenditures under this subparagraph for the sector for the previous fiscal year increased by the baseline annual growth rate for such sector for the fiscal year involved (as specified in paragraph (3)(C)).

(C) Baseline annual growth rates.—The following table specifies the baseline annual growth rates for each of the sectors for different fiscal years:

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<td>(A) Inpatient hospital services</td>
<td>5.7</td>
<td>5.6</td>
<td>6.0</td>
<td>5.7</td>
<td>5.5</td>
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<td>(B) Home health services</td>
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<td>15.1</td>
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<td>8.1</td>
<td>7.9</td>
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<td>(C) Extended care services</td>
<td>19.7</td>
<td>12.3</td>
<td>9.3</td>
<td>8.7</td>
<td>8.4</td>
<td>8.0</td>
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<tr>
<td>(D) Hospice care</td>
<td>32.0</td>
<td>24.0</td>
<td>18.0</td>
<td>15.0</td>
<td>12.0</td>
<td>10.0</td>
<td>9.0</td>
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<td>(E) Physicians’ services</td>
<td>12.4</td>
<td>9.7</td>
<td>8.7</td>
<td>9.3</td>
<td>9.6</td>
<td>10.1</td>
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<tr>
<td>(F) Outpatient hospital services</td>
<td>14.7</td>
<td>13.9</td>
<td>14.5</td>
<td>15.0</td>
<td>14.1</td>
<td>13.9</td>
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<td>(G) Durable medical equipment and supplies</td>
<td>16.1</td>
<td>15.5</td>
<td>13.7</td>
<td>12.4</td>
<td>13.2</td>
<td>13.9</td>
<td>14.5</td>
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<td>(H) Diagnostic tests</td>
<td>13.1</td>
<td>11.3</td>
<td>11.0</td>
<td>11.4</td>
<td>11.5</td>
<td>11.9</td>
<td></td>
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<tr>
<td>(I) Other items and services</td>
<td>11.2</td>
<td>10.2</td>
<td>10.9</td>
<td>12.0</td>
<td>11.6</td>
<td>11.6</td>
<td>11.8</td>
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(d) Manner of Payment Adjustment.—

(1) Payment reductions.—

(A) In general.—Subject to the succeeding provisions of this subsection, the Secretary shall apply a payment reduction for each excess spending sector for a fiscal year in such a manner as to—

(i) provide for the full appropriate adjustment to the fee-for-service expenditures for the sector for the fiscal year will be reduced by 133 1/3 percent of the amount of the sector reduction target then in effect.

(B) Sector reduction target.—In paragraph (1), the ‘sector reduction target’ for an excess spending sector for a fiscal year is equal to the product of—

(i) the amount of the excess spending for such sector and year (as defined in subsection (a)(2)); and

(ii) the ratio of—

(I) the aggregate excess spending for the year (as defined in subsection (a)(1)), to

(ii) the sum of the amounts of the excess spending over the prior fiscal year.

(2) Taking into account volume and cash flow.—In providing for an adjustment in payments under this subsection for a sector for a fiscal year, the Secretary shall take into account (in a manner consistent with actuarial projections)—

(A) the impact of such an adjustment on the volume or type of services provided in such sector (and other sectors), and

(B) the impact on the cost of providing such services to Medicare beneficiaries in that sector (and other sectors), and

(C) the impact of such an adjustment on the number of Medicare beneficiaries in that sector (and other sectors).

(3) Proportionality of reductions within a sector.—In making adjustments under this subsection in payment for items and services included in a sector of Medicare services for a fiscal year, the Secretary shall provide for such an adjustment that results (to the maximum extent feasible) in the same percentage reductions in aggregate Federal payments under parts A and B for the different classes of items and services included in such sector for the fiscal year.

(4) Application to payments made based on prospective payment rates determined on a fiscal year basis.—

(A) In general.—In applying subsection (a) with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a fiscal year, the Secretary shall provide for an adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished (or, in the case of payment for operating costs of inpatient hospital services of subsection (d) hospitals and subsection (d) Puerto Rico hospitals (as defined in paragraphs (1)(B) and (9)(A) of section 1886(d)), discharges occurring) during such fiscal year.

(B) Description of application to specific services.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

(i) the impact of such an adjustment on the volume or type of services provided in such sector (and other sectors), and

(ii) the impact on the cost of providing such services to Medicare beneficiaries in that sector (and other sectors), and

(iii) the impact of such an adjustment on the number of Medicare beneficiaries in that sector (and other sectors).
under section 1888A(d) for covered non-routine services of a skilled nursing facility (as described in such section).

(5) APPLICATION OF PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A CALENDAR YEAR BASIS.—

(A) IN GENERAL.—In applying subsection (a) for a fiscal year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished at any time during such fiscal year resulting from payment reductions made under this paragraph for the previous calendar year.

(B) APPICLATION IN SPECIFIC CASES.—The adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

(1) UPDATE IN CONVERSION FACTOR FOR PHYSICIANS.—To the computation of the conversion factor under subsection (d) of section 1848 used in the fee schedule established under subsection (b) of such section for items and services furnished during the calendar year in which the fiscal year ends.

(2) PAYMENT RATES FOR OTHER HEALTH CARE PROFESSIONALS.—To the computation of payment rates for items and services furnished during the calendar year in which the fiscal year ends, of certified registered nurse anesthetists under section 1833(i), nurse midwives, physician assistants, nurse practitioners, and clinical nurse specialists under section 1833(n), clinical psychologists, clinical social workers, physical or occupational therapists, and any other health professionals for which payment rates are based (in whole or in part) on payments for physicians' services.

(3) UPDATE IN LAB FEE SCHEDULE.—To the computation of the fee schedule amount under section 1833(h)(2) for clinical diagnostic laboratory services furnished during the calendar year in which the fiscal year ends.

(4) UPDATE IN REASONABLE CHARGES FOR VACCINES.—To the computation of the reasonable charge for vaccines described in section 1861(s)(10) for vaccines furnished during the calendar year in which the fiscal year ends.

(5) DURABLE MEDICAL EQUIPMENT-RELATED ITEMS.—To the computation of the payment amounts under section 1833(a)(13) for covered items described in section 1833(a)(13), for services furnished during the calendar year in which the fiscal year ends.

(6) RADIOLOGIST SERVICES.—To the computation of conversion factors for radiologist services under section 1834(b), for services furnished during the calendar year in which the fiscal year ends.

(7) SCREENING MAMMOGRAPHY.—To the computation of payment rates for screening mammography performed under section 1896(c) for screening mammography performed during the calendar year in which the fiscal year ends.

(8) PHYSICIAN SERVICES.—To the computation of the amount to be recognized under section 1833(h) for payment for prosthetic devices and orthotics, for items furnished during the calendar year in which the fiscal year ends.

(9) SURGICAL DRESSINGS.—To the computation of the amount referred to in section 1833(h) for items and services furnished during the calendar year in which the fiscal year ends.

(10) AMBULANCE SERVICES.—To the computation of limits on reasonable charges for ambulance services furnished during the calendar year in which the fiscal year ends.

(11) OPERATING COSTS FOR PPS-EXEMPT HOSPITALS.—To the computation of payment amounts under section 1886 for operating costs of inpatient hospital services of PPS-exempt hospitals for portions of cost reporting periods occurring during the fiscal year.

(12) INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—To the computation of payment amounts under section 1814 for inpatient rural primary care hospital services for portions of cost reporting periods occurring during the fiscal year.

(13) EXTENDED CARE SERVICES OF A SKILLED NURSING FACILITY.—To the computation of payment amounts under section 1861(v) for post-hospital extended care services of a skilled nursing facility which are covered under part A and the prospective payment system subject to section 1888A for portions of cost reporting periods occurring during the fiscal year.

(14) HOME HEALTH SERVICES.—Subject to paragraph (4)(B)(iii), for payment amounts for home health services, for portions of cost reporting periods occurring during the fiscal year.

(15) DEPARTMENT OF DEFENSE MEDICAL PROGRAM.—To the computation of payment amounts under section 1833(a)(11) for services provided under the Department of Defense Medical Program for portions of cost reporting periods occurring during the fiscal year.

(16) HOME HEALTH SERVICES.—Subject to paragraph (4)(B)(iii), for payment amounts for home health services, for portions of cost reporting periods occurring during the fiscal year.

(17) OTHER.—In applying subsection (a) for a fiscal year for items and services for which the Secretary may provide (in order properly to carry out) the adjustment to the amount of payment under this subsection in the fiscal year involved.

(9) REFERENCES TO PAYMENT RATES.—Except as the Secretary may provide, any reference in this title (other than this section) to a payment rate is deemed a reference to such a rate as adjusted under this subsection.

(10) PUBLICATION OF DETERMINATIONS; JUDICIAL REVIEW.—Not later than October 1, 1996, the Secretary shall publish in the Federal Register the classification of medicare items and services included in the sectors of medicare items and services for the second previous fiscal year, and the general methodology to be used in applying payment adjustments to the different classes of items and services within the sectors.

(11) INCLUSION OF INFORMATION IN PRESIDENT'S BUDGET.—

(A) IN GENERAL.—With respect to fiscal years beginning with fiscal year (b) The President shall include in the budget submitted under section 1105 of title 31, United States Code, information on the fee-for-service expenditures, within each sector, for the second previous fiscal year, and how such expenditures compare to the adjusted sector allotment for that sector for that fiscal year, and

(12) ACTUAL ANNUAL GROWTH RATES FOR FEE-FOR-SERVICE EXPENDITURES IN THE DIFFERENT SECTORS IN THE SECOND PREVIOUS FISCAL YEAR.

(B) RECOMMENDATION REGARDING GROWTH FACTORS.—The President may include in such budget for a fiscal year (beginning with fiscal year 1998) recommendations regarding percentages that should be applied (for one or more fiscal years beginning with that fiscal year) instead of the baseline annual growth rates under subsection (c)(3)(C) such recommendations shall take into account medically appropriate practice patterns.

(13) DETERMINATIONS CONCERNING PAYMENT ADJUSTMENTS.—

(A) RECOMMENDATIONS OF COMMISSION.—By not later than March 1 of each year (beginning with 1997), the Medicare Payment Review Commission shall submit to the Congress a report that analyzes the previous operation (if any) of this section and that includes recommendations concerning the manner in which this section should be applied for the following fiscal year:

(B) PRELIMINARY NOTICE BY SECRETARY.—Not later than May 15 preceding the beginning of such fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the Federal Register a notice containing the Secretary's preliminary determination, for each sector of medicare services, concerning the following:

(i) Whether there will be a payment adjustment for items and services included in such sector for the fiscal year under subsection (a).

(ii) If there will be such an adjustment, the size of such adjustment and the methodology to be used in making such a payment adjustment for classes of items and services included in such sector.

(B) Beginning with fiscal year 1999, the fee-for-service expenditures for such sector for the second preceding fiscal year.

(C) Such recommendations shall include an explanation of the basis for such determination. Determinations under this subparagraph and subparagraph (C)
shall be based on the best data available at the time of such determinations.

(C) Final Determination.—Not later than September 1 preceding the beginning of each fiscal year, the Secretary shall publish in the Federal Register a final determination, for each, sector of medicare services, concerning the matters described in subparagraphs (A) and (B) (including an explanation of the reasons for any differences between such determination and the preliminary determination for such fiscal year published under subparagraph (B) of section 1886(d)(5)(G)).

(4) Limitation on Administrative or Judicial Review.—There shall be no administrative or judicial review under section 1878 or otherwise of—

(A) the classification of items and services among the sectors of medicare services under subsection (c),

(B) the determination of the amounts of allotments for the different sectors of medicare services under subsection (c),

(C) the determination of the amount (or method of application) of any payment adjustment under subsection (d), or

(D) any adjustment in an allotment effected under paragraph (1) of subsection (c) for the fiscal year is—

(1) ADJUSTED ALLOTMENT.—The adjusted allotment for a sector for a fiscal year is—

(A) the amount that would be computed as the allotment under subsection (c) for the sector for the fiscal year if the actual amount of payments made in the fiscal year under the MedicarePlus program under part C in the fiscal year were substituted for the amount described in clause (i); and

(B) adjusted to take into account the amount of any adjustment under paragraph (1) for that fiscal year (based on expenditures in the second preceding fiscal year).

(2) REPORT OF TRUSTEES ON GROWTH RATE IN PART A EXPENDITURES.—Section 1817 (42 U.S.C. 1395s) is amended by adding at the end the following new subsection:

(2k) Each annual report provided in subsection (b)(2) shall include information regarding the annual rate of growth in program expenditures that would be required to maintain the financial solvency of the Trust Fund and the extent to which the provisions of section 1891 of this title restrain the rate of growth of expenditures under this part in order to achieve such solvency.

Subtitle H—Rural Areas

SEC. 8701. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

(A) IN GENERAL.—A State that has submitted an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program that provides that—

(1) the State shall designate one or more facilities as a critical access hospital in accordance with paragraph (2).

(2) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

(A) is located in a county (or equivalent unit of local government) in a rural area (as defined in subsection 1886(d)(5)(G)); and

(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

(B) EXTENSION OF TARGET AMOUNT.—Section 1886(d)(3)(D) (42 U.S.C. 1395w(b)(3)(D)) is amended by adding at the end the following new clause:

(III) is certified by the State as being a necessary provider of health care services to residents in the area;

(C) LIMITATION ON THE USE OF THE MONEY.—(1) MAKES AVAILABLE.—The money made available under this section is only for the purpose of improving access to care and shall be used to pay for the cost of medical services furnished by hospitals, or another facility described in this subsection, or

(ii) certifying the State as being a necessary provider of health care services to residents in the area;

(iii) making available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area.

(D) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13010(2) of OBRA '93 (42 U.S.C. 1395w note) is amended by striking "or fiscal years 1994, 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, fiscal year 1999."; and

(E) EFFECTIVE DATE.—The amendments made by this subsection (A) shall apply with respect to discharges occurring on or after September 1, 1995. SEC. 8702. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—

(A) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395j–4) is amended to read as follows:

MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

Sec. 1820. (a) Establishment.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing —

(1) Assurances that the State—

(A) has developed, or is in the process of developing, a State rural health care plan that—

(i) provides for the creation of one or more rural health networks (as defined in subsection (d) in the State),

(ii) promotes regionalization of rural health services in the State, and

(iii) improves access to hospital and other health services for rural residents of the State;

(B) has developed the rural health care plan described in subparagraph (a)(ii), and

(C) SUBMIT APPLICATION TO SECRETARY.—The Governor of a State that desires to establish a medicare rural hospital flexibility program under this section shall submit an application to the Secretary that—

(1) IS AMENDED TO READ AS FOLLOWS:

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``(f) FEE-FOR-SERVICE EXPENDITURES DEFINED.—In this section, the term ‘fee-for-service expenditures', for items and services within a sector for the fiscal year means amounts payable for such items and services which are furnished during the fiscal year, and—

(i) includes types of expenses otherwise reimbursable under parts A and B (including administrative costs incurred by organizations described in sections 1816 and 1842) with respect to such items and services, and

(ii) does not include amounts paid under part C.

(g) LOOK-BACK ADJUSTMENT IN ALLOTMENTS TO REFLECT ACTUAL EXPENDITURES.—

(1) DETERMINATIONS.—

(A) IN GENERAL.—If the Secretary estimates under subsection (e)(1)(B) with respect to a particular fiscal year (beginning with fiscal year 1998) that—

(i) the fee-for-service expenditures for all sectors of medicare services for the second preceding fiscal year, exceeded

(ii) the sum of the adjusted allotments for all sectors for such fiscal year (as defined in paragraph (2)), the term final excess spending sector means, for a fiscal year, a sector of medicare services for which the Secretary determines under subsection (e)(6) that—

(i) the fee-for-service expenditures (as defined in subsection (f)) for the fiscal year, exceeded

(ii) the adjusted allotment for such fiscal year.

For purposes of clause (i), the term ‘final excess spending’ means, for a fiscal year with respect to such a sector, the amount by which the amount described in subsection (i) for the fiscal year and sector exceeds the amount described in subsection (ii) for such year and sector.

(iii) LOOK-BACK SECTOR REDUCTION AMOUNT.—In subparagraph (A)(i), the ‘look back sector reduction amount’ for a final excess spending sector for a fiscal year is equal to the product of—

(a) the sum of the final excess spending for such sector and year (as defined in clause (ii)); and

(b) the ratio of—

(a) the aggregate final excess spending for the year (described in subparagraph (A)(iii)), to

(b) the sum of the amounts of the final excess spending for all final excess spending sectors.

(2) ADJUSTED ALLOTMENT.—The adjusted allotment for such a sector for a fiscal year is—

(A) the amount that would be computed as the allotment under subsection (c) for the sector for the fiscal year if the actual amount of payments made in the fiscal year under the MedicarePlus program under part C in the fiscal year were substituted for the amount described in section 1886(d)(3)(D).

(B) adjusted to take into account the amount of any adjustment under paragraph (2)(A) for that fiscal year (based on expenditures in the second preceding fiscal year).
"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site, dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist, as defined in section 1861(w)(1)," and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

(a) END. The amendments of subparagraph (I) of paragraph (2) of section 1861(aa)."
(d) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d) of section 1866(d)(10)(C)(ii) is amended by striking “primary care hospital services’ means medical and other health services furnished by a critical access hospital on an outpatient basis.”.

(B) Section 1835(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended in paragraph (6), by striking “primary care hospital services” and inserting “primary care hospital services during the 30-day period beginning on or after October 1, 1995.”

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395k(a)) is amended in paragraph (9), by striking “primary care hospital services during the 30-day period beginning on or after October 1, 1995.”

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:—

“(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 8703. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services.—(1) Coverage.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended by adding at the end the following new subparagraph:

“(m) rural emergency access care hospital services’ means the following services (as defined in section 1861(mm)):—

(i) short-term hospital services; and

(ii) the services furnished by a critical access hospital on an outpatient basis.

(b) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395k(a)) is amended in paragraph (9), by striking “primary care hospital services” and inserting “primary care hospital services during the 30-day period beginning on or after October 1, 1995.”

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:—

“(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 8704. CLASSIFICATION OF RURAL REFERRAL CENTERS

(a) PROHIBITION OF REENACTMENT OF RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1866(d)(10)(C)(ii) (42 U.S.C. 1395ww(d)(10)(C)(ii)) is amended—

(A) by redesignating clause (ii) as clause (iii); and

(B) by inserting after clause (iii) the following new clause:

“(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital classified as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any such gap after the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital for fiscal year 1996 and each subsequent fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1866(d)(10)(D) (as amended by paragraph (2)) but for its failure to meet the deadline for applications under section 1866(d)(10)(C)(ii).

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED REFERRAL CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1866(d)(10)(D) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

SEC. 8705. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1866(d)(13)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section for any hospital located in a rural area (as defined in section 1866(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section for hospitals located in the State in which the hospital is located.

(b) IMPLEMENTATION.—The Secretary of Health and Human Services shall adjust the average area wage indices referenced in paragraph (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1866(e) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this Act did not apply.

SEC. 8706. ADDITIONAL PAYMENTS FOR PHYSICIANS’ SERVICES FURNISHED IN SHORTAGE AREAS.

(a) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking “10 percent” and inserting “20 percent”.

(b) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after “physicians’ services” the following: “the following: consisting of primary care services provided to rural referral centers for fiscal year 1996 and each subsequent fiscal year.”

(c) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking “area,” and inserting “area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians’ services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation).”

(b) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to physicians’ services furnished in an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians’ services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation.

SEC. 8707. ADDITIONAL PAYMENTS FOR PHYSICIANS’ SERVICES FOR SERVICES IN SHORTAGE AREAS.

(a) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking “10 percent” and inserting “20 percent”.

(b) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after “physicians’ services” the following: “the following: consisting of primary care services provided to rural referral centers for fiscal year 1996 and each subsequent fiscal year.”

(c) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking “area,” and inserting “area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians’ services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation).”

(b) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to physicians’ services furnished in an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians’ services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation.

SEC. 8708. ADDITIONAL PAYMENTS FOR PHYSICIANS’ SERVICES FOR SERVICES IN SHORTAGE AREAS.
(e) Effective Date.—The amendments made by subsections (a), (b), and (d) shall apply to physicians’ services furnished on or after October 1, 1995.

SEC. 8070. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS

(a) Coverage in Outpatient or Home Settings for Physician Assistants and Nurse Practitioners.—Section 1861(s)(2)(K)(i)(IV) (relating to physician assistant settings), and services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner settings) is amended—

(1) in clause (i)—

(A) by striking “(or) at the end of subclause (II); and

(B) by inserting “or (IV) in an outpatient or home setting as defined by the Secretary” following “shortage area”; and

(2) in clause (ii)—

(A) by striking “in a skilled” and inserting “in (I) a skilled”; and

(B) by inserting “, or (II) in an outpatient or home setting as defined by the Secretary,” after “as defined in section 1819(a)”.

(b) Payments to Physician Assistants and Nurse Practitioners in Outpatient or Home Settings.—

(1) IN GENERAL.—Section 1833(c)(1) (42 U.S.C. 1395f(1)) is amended—

(A) by striking “services described in section 1861(s)(2)(K)(i)(IV), and services described in section 1861(s)(2)(K)(ii)(II)” and inserting “physician assistants’ services furnished on or after October 1, 1995, and nurse practitioners in outpatient or home settings”;

(B) by amending subsection (b) to read as follows—

“(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

“(3)With respect to services described in clauses (i)(IV), (ii)(III), and (iv) of section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings) after the period specified in subsection (a) shall be equal to 80 percent of the lesser of the amount that would otherwise be payable under such section 1857(a)(4), as a result of the termination of the Interstate construction program; and

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking “(ii) or (iv) and inserting “(ii), or (III) of clause (i), clause (ii)(I), or clause (iv)’’. and

(c) Payment Under the Fee Schedule to Physician Assistants and Nurse Practitioners in Outpatient or Home Settings.—

(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new paragraph:

“(4)With respect to services described in clauses (i)(IV), (ii)(III), and (iv) of section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings) after the period specified in subsection (a) shall be equal to (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized as performed by a physician who is serving as an assistant at surgery.’’.

(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended by inserting “or (i)” before “in a skilled” and inserting “physician assistants’ services furnished in outpatient or home settings”.

(d) Effective Date.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 8070. EXPANDING ACCESS TO NURSE AIDE TRAINING IN UNDERSERVED AREAS.

(a) In General.—Section 1919(f)(2)(B)(iii)(I) (42 U.S.C. 1919(f)(2)(B)(iii)(I)) is amended in the matter preceding clause (i) by striking “in a nursing facility and inserting “in a nursing facility or (in such a facility, unless the State determination that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort that a sufficient and adequate environment exists for such a program’’.

(b) Effective Date.—The amendment made by subsection (a) shall apply to nurse aide training and education programs under section 2419 of the Social Security Act which are offered on or after October 1, 1995.

TITLE IX—TRANSPORTATION AND RELATED PROVISIONS

SEC. 9001. MINIMUM ALLOCATION FOR HIGHWAY PROGRAMS.

(a) Technical Correction.—With respect to fiscal year 1996—

(1) the Secretary of Transportation shall determine, in accordance with the policies established by the Interstate Surface Transportation Efficiency Act of 1991 (105 Stat. 1914), which of the States will no longer require an apportionment under section 157a(a)(4) of title 23, United States Code, and

(2) which of the States will require decreased funding under such section 157a(a)(4), as a result of the termination of the Interstate construction program; and

(b) Effect on Certain Calculations.—The correction made by subsection (a) shall be made after the reduction required under section 5305 of the Interstate Surface Transportation Efficiency Act of 1991 (105 Stat. 1921) and shall not be taken into account in making the calculations under sections 1003(c), 1013(c), and 1015 of title 23, United States Code.

SEC. 9002. EXTENSION OF HIGHER VESSEL TONNAGE DUTIES.


(c) Effective Date.—The amendments made by this section shall expire on September 30, 1998.
(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, each such rate shall be increased by the amount which shall be in a whole dollar amount that is no greater than the amount by which the new-law DIC rate is increased for that fiscal year as determined under subsection (a). If the Secretary determines that the veteran's willful misconduct is not the result of the veteran's willful misconduct, the Secretary shall notify the veteran or surviving spouse that the claim is being reopened, request of the authority of the Secretary to waive the payment of indebtedness under section 3713(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should not be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination. It is the result of the veteran's willful misconduct, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing the determination.

SEC. 10023. WITHHOLDING OF PAYMENTS AND BENEFITS

(a) Notice Required in Lieu of Consent or Court Order.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 3320(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should not be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination. It is the result of the veteran's willful misconduct, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing the determination.

(b) Effective Date.—The amendments made by this section shall apply to a veteran by a Department employee or in a facility over which the Secretary exercises control over in providing the Department health care; or to a veteran who is a former prisoner of war.

(c) Effect of Determination.—If the Secretary determines under section 3797(b) of this title, in the course of training or rehabilitation services for the purposes of which the veteran is a veteran by reason of the provisions of section 3315 of title 38, United States Code, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing the determination.

TITLE XI—REVENUE PROVISIONS

SEC. 11000. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) Revenue Reconciliation Act.—This title may be cited as the "Revenue Reconciliation Act of 1995".

(b) Contract With America.—Subtitles A, B, C, and D of this title may be cited as the "Contract With America Tax Relief Act of 1999".

(c) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this title...
an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(d) Table of Contents.—The table of contents for this title is as follows:

TITLE XI—REVENUE PROVISIONS

Sec. 11000. Short titles; amendment of 1986 Code; table of contents.

SUBTITLE A—Family Tax Relief

Sec. 11001. Child tax credit.

Sec. 11002. Reduction in marriage penalty.

Sec. 11003. Credit for adoption expenses.

Sec. 11004. Deduction for interest on education loans.

Sec. 11005. Deduction for taxpayers with certain persons requiring custodial care in their households.

SUBTITLE B—Savings and Investment Incentives

CHAPTER 1—RETIREMENT SAVINGS INCENTIVES

SUBCHAPTER A—INDIVIDUAL RETIREMENT PLANS

PART I—Restoration of IRA Deduction

Sec. 11001. Restoration of IRA deduction.

Sec. 11002. Inflation adjustment for deductible amount.

Sec. 11003. Homemakers eligible for full IRA deduction.

PART II—NonDeductible Tax-Free IRAs

Sec. 11005. Establishment of American Dream IRA.

SUBCHAPTER B—Penalty-Free Distributions

Sec. 11016. Distributions from certain plans may be used without penalty to purchase first homes or to pay higher education or financially devastating medical expenses.

SUBCHAPTER C—Simple Savings Plans

Sec. 11018. Establishment of savings incentive match plans for employees of small employers.

Sec. 11019. Extension of simple plan to 401(k) arrangements.

CHAPTER 2—Capital Gains Reform

SUBCHAPTER A—Taxpayers Other Than Corporations

Sec. 11021. Capital gains deduction.

Sec. 11022. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain.

Sec. 11023. Modifications to exclusion of gain on certain small business stock.

SUBCHAPTER B—Corporate Capital Gains

Sec. 11025. Reduction of alternative capital gain tax for corporations.

SUBCHAPTER C—Capital Loss Deduction Allowed with Respect to Sale or Exchange of Principal Residence

Sec. 11026. Capital loss deduction allowed with respect to sale or exchange of principal residence.

CHAPTER 3—Corporate Alternative Minimum Tax Reform

Sec. 11031. Modification of depreciation rules under minimum tax.

Sec. 11032. Long-term unused credits allowed against minimum tax.

CHAPTER 4—Cost Recovery Provisions

Sec. 11035. Treatment of abandonment of lessor improvements at termination of lease.

Sec. 11036. Increase in expense treatment for small businesses.

SUBTITLE C—Health Related Provisions

CHAPTER 1—Long-Term Care Provisions

SUBCHAPTER A—Long-Term Care Services and Contracts

PART I—General Provisions

Sec. 11041. Treatment of long-term care insurance.
Sec. 11671. Certain notices disregarded under Sec. 11661. Certain combinations not treated as Sec. 11651. Consolidation of taxes on aviation Sec. 11645. Transfer to brewery of beer imported Sec. 11643. Refund of tax on wine returned to Sec. 11641. Credit or refund for imported bottled Sec. 11631. Taxable termination not to include Sec. 11618. Clarification of treatment of survi- Sec. 11617. Clarifications relating to disclaim- Sec. 11616. Gifts may not be revalued for estate Sec. 11613. Clarification of qualified terminable Sec. 11612. Adjustments for gifts within 3 years Sec. 11606. Treatment of funeral trusts. Sec. 11604. Executor of estate and beneficiaries Sec. 11603. Separate share rules available to es- Sec. 11602. Distributions during first 65 days of Sec. 11581. Closing of partnership taxable year November 20, 1995
Sec. 11701. Adjustment of death benefit limits for certain policies.
``SEC. 24. ADOPTION EXPENSES.

(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

(b) LIMITATIONS.—

(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph) as the taxpayer's adjusted gross income (determined without regard to this paragraph but with regard to paragraph (1)) bears to the taxpayer's adjusted gross income determined under section 62 for the taxable year in which the credit arose.

(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by paragraph (2), the excess shall be treated as if such credit were allowed under any other provision of this chapter.

(d) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 22(e) shall apply for purposes of this section.

(e) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAM.—If an employer reimburses an employee for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program, such reimbursement shall not be taken into account for purposes of this section.

``SEC. 138. ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the adoption credit provided for in section 21(e) with respect to the adoption of a child with special needs.

(b) LIMITATIONS.—

(1) DOLLAR LIMITATION.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child with special needs shall be treated as 1 loan.

(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) (for the adoption of a child with special needs) shall be treated as if such credit were allowed under any other provision of this chapter.

(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by paragraph (2), the excess shall be treated as if such credit were allowed under any other provision of this chapter.

(d) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 22(e) shall apply for purposes of this section.

(e) LIMITATION ON EXCESS CREDIT.—If the modified adjusted gross income of the taxpayer for the taxable year in which the credit arises (determined without regard to the credit allowed under this section) exceeds $45,000 ($65,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a deduction under this section shall be reduced (but not below zero) by an amount which bears the same ratio to the amount which would be so allowable as it bears to $20,000.

(f) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—

(i) without regard to section 139, sections 131, 132, and 133, and the following new sections:

``SEC. 139. Adoption assistance programs.

(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the adoption credit provided for in section 21(e) with respect to the adoption of a child with special needs.

(b) LIMITATIONS.—

(1) DOLLAR LIMITATION.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child with special needs shall be treated as 1 loan.

(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) (for the adoption of a child with special needs) shall be treated as if such credit were allowed under any other provision of this chapter.

(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by paragraph (2), the excess shall be treated as if such credit were allowed under any other provision of this chapter.

(d) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 22(e) shall apply for purposes of this section.

``SEC. 130. ADOPTION CREDIT FOR FOSTER CARE PLACEMENTS.

(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the adoption credit provided for in section 21(e) with respect to the adoption of a child with special needs.

(b) LIMITATIONS.—

(1) DOLLAR LIMITATION.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child with special needs shall be treated as 1 loan.

(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) (for the adoption of a child with special needs) shall be treated as if such credit were allowed under any other provision of this chapter.

(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by paragraph (2), the excess shall be treated as if such credit were allowed under any other provision of this chapter.

(d) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 22(e) shall apply for purposes of this section.
(a) The name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received.

(b) The amount of such interest received for the calendar year.

(c) Such other information as the Secretary may prescribe.

APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

(1) TREATED AS PERSONS.—The term ‘person’ includes any governmental unit (and any agency or instrumentality thereof).

(2) Allowing—In the case of a governmental unit or any agency or instrumentality thereof—

(A) subsection (a) shall be applied without regard to the non-filing requirement contained therein, and

(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

(d) Statements to be furnished to individuals with respect to whom information is required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name and address of the person required to make such return, and

(2) the aggregate amount of interest described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(e) Qualified Education Loan Defined.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term ‘qualified education loan’ has the meaning given such term by section 220(e)(1).

(f) Returns which would be required to be made by 2 or more persons.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by an individual who is related (within the meaning of section 267(b) or 707(b)(1)) to the person required to make such return from the individual to whom the statement is required to be furnished, the written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(g) Special Rules.—For purposes of this section, rules similar to the rules of paragraphs (1), (3), and (4) of section 222 apply.

(h) Deduction allowed whether or not taxpayer items other deductions.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

(17) Taxpayers with certain persons requiring custodial care in their households.—The deduction allowed by section 222 is required to be made by 2 or more persons. The deduction allowed by section 222 is limited to the applicable dollar amount.

(i) Cross-reference.—The table of sections for part VII of chapter 1 of title 26 is amended by inserting after section 220 the following new section:

**SECTION 221. Taxpayers with certain persons requiring custodial care in their households.**

** SEC. 221. TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.**

(a) Allowance of deduction.—In the case of an individual who maintains a household which includes as a member one or more qualified persons, there shall be allowed as a deduction for the taxable year an amount equal to $1,000 for each such person.

(b) Qualified Person.—For purposes of this section, the term ‘qualified person’ means any individual—

(1) who is a father or mother of the taxpayer, his spouse, or his former spouse or who is an ancestor of such a father or mother,

(2) who is physically or mentally incapable of caring for himself,

(3) who has as his principal place of abode for more than half of the taxable year the home of the taxpayer,

(4) over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer, and

(5) whose name and TIN are included on the taxpayer’s return for the taxable year.

For purposes of paragraph (1), a stepfather or stepmother shall be treated as a father or mother of the taxpayer.

(c) Special Rules.—For purposes of this section, rules similar to the rules of paragraphs (1), (2), (3), and (4) of section 222 apply.

(d) Deduction allowed whether or not taxpayer items other deductions.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraphs:

(i) Limitation on deduction.—The deduction allowed by section 222 is limited to the applicable dollar amount.

(ii) Cross-reference.—The table of sections for part VII of chapter 1 of title 26 is amended by inserting after section 220 the following new section:

**Sec. 222. Cross reference.**

(e) Effective date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

**Subtitle B—Savings and Investment Incentives**

**CHAPTER 1—RETIREMENT SAVINGS INCENTIVES**

**Subchapter A—Individual Retirement Plans**

**PART I—RETIREMENT SAVINGS INCENTIVES**

**SECTION 11050. Deduction for taxpayers with certain persons requiring custodial care in their households.**

(a) In general.—Part VII of chapter B of title 26 is amended by redesignating section 222 as section 220 and by inserting after section 220 the following new section:

**SEC. 221. Taxpayers with certain persons requiring custodial care in their households.**

**SEC. 222. Cross reference.**
"(iii) In the case of a married individual filing a separate return,

2) INCREASE IN PHASEOUT RANGE FOR JOINT RETURNS.—

(A) IN GENERAL.—Clause (ii) of section 219(g)(2)(A) is amended by inserting "(the phaseout amount in the case of a joint return)" after "$1,000".

(B) PHASEOUT AMOUNT.—Paragraph (3) of section 219(g) is amended—

(i) by adding at the end the following new subparagraph:

"(C) PHASEOUT AMOUNT.—The phaseout amount is:

<table>
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<th>Year</th>
<th>Phaseout Amount</th>
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<tbody>
<tr>
<td>1996</td>
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<tr>
<td>2006</td>
<td>$10,000</td>
</tr>
<tr>
<td>2007 and thereafter</td>
<td>$10,000</td>
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</tbody>
</table>

(ii) by inserting "; PHASEOUT AMOUNT" after "AMOUNT" in the heading.

3) COST-OF-LIVING ADJUSTMENTS.—Section 219(h), as added by section 11012(a), is amended—

(A) by adding at the end the following new paragraph:

"(2) PHASE-OUT RANGES.—In the case of any taxable year beginning in a calendar year after 2007, the $100,000 and $85,000 amounts in clauses (i) and (ii) of subsection (b)(3)(A) shall be increased by an amount equal to the product of such dollar amount and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting "2006" for "1999" if the amount to which $2,000 would be increased under the preceding sentence is not a multiple of $500, such amount shall be rounded to the nearest lower multiple of $500."

(b) CONFORMING AMENDMENTS.—

1) Section 219(g)(2)(A) 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 subsection (b)(3)"

2) Section 219(g)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

3) Section 219(h) is amended by striking "$2,000".

SEC. 11013. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.

(a) Spousal Contributions.—Section 219(g), as added by section 11004(c), is amended—

(A) by adding a new paragraph at the end:

"(a) IN GENERAL. Clause (ii) of section 219(g)(2) is amended by striking "or the individual's spouse for the taxable year."'

(b) IN GENERAL.—Except as provided in subparagraph (A), section 219(g)(3) is amended by striking "(the'

(c) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

PART II—NONDEDUCTIBLE TAX-FREE IRAS

SEC. 11015. ESTABLISHMENT OF AMERICAN DREAM IRA.

(a) In General.—Subpart A of part I of chapter 1 relating to pension, profit-sharing, stock bonus plans, etc. is amended by inserting after section 408A the following new section:

"SEC. 408A. AMERICAN DREAM IRA.—For purposes of this title, the term ‘American Dream IRA’ or ‘AD IRA’ means an individual retirement plan (as defined in section 7701(a)(37)) which is designed in the time of the establishment of the plan as an American Dream IRA. Such designation shall be made in such manner as the Secretary may prescribe.

(b) Treatment of Contributions.—

(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an AD IRA.

(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all AD IRAs maintained for an individual shall not exceed the excess (if any) of—

(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (g) of this section),

(B) the amount so allowed.

(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to an AD IRA may be made even after the individual for whom the account is maintained has attained age 70½.

(c) MANDATORY DISTRIBUTION RULES NOT TO APPLY, ETC.—

(A) IN GENERAL.—Subpart A of part I of chapter 1 relating to pension, profit-sharing, stock bonus plans, etc. is amended by striking "or the individual's spouse for the taxable year."'

(B) PHASEOUT AMOUNT. Paragraph (3) of section 219(g) is amended—

(1) IN GENERAL. Clause (ii) of section 219(g)(2) is amended by striking "or the individual's spouse for the taxable year.

(2) INCREASE IN PHASEOUT RANGE FOR JOINT RETURNS.—In the case of any taxable year beginning in a calendar year after 1996, the $2,000 amount under section 219(g)(2)(A) shall be increased by an amount equal to the product of $2,000 and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting "1999" for "1992". If the amount to which $2,000 would be increased under the preceding sentence is not a multiple of $500, such amount shall be rounded to the nearest lower multiple of $500.

(b) CONFORMING AMENDMENTS.—

1) Section 219(f)(3) is amended by striking "$2,000" and inserting "the dollar amount in effect for such taxable year under subsection (b)(1)(A)".

2) Section 219(g)(1) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

3) Section 219(g)(2) is amended by striking "(1) IN GENERAL.—No rollover contribution shall be allowed under section 219 for a contribution to an AD IRA."

4) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, the rule of section 219(g)(2)(B) shall apply.

(d) DISTRIBUTION RULES.—For purposes of this title—

(1) GENERAL RULES.—

(A) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from an AD IRA shall not be includable in gross income.

(B) NONQUALIFIED DISTRIBUTIONS.—In applying section 72 to any distribution from an AD IRA which is not a qualified distribution, such distribution shall be treated as made from contributions to the AD IRA to the extent that such distribution, when added to all previous distributions from the AD IRA, does not exceed the aggregate amount of contributions to the AD IRA for purposes of the excess benefit rule, and AD IRAs maintained for the benefit of an individual shall be treated as 1 account.

(C) EXCEPTION FROM PENALTY TAX.—Section 72 shall not apply to—

(i) any qualified distribution from an AD IRA, and

(ii) any qualified special purpose distribution (whether or not a qualified distribution) from an AD IRA.

(b) AMERICAN DREAM IRA.—For purposes of this title, the term ‘American Dream IRA’ or ‘AD IRA’ means an individual retirement plan (as defined in section 7701(a)(37)) which is designed in the time of the establishment of the plan as an American Dream IRA. Such designation shall be made in such manner as the Secretary may prescribe.

(c) TREATMENT OF CONTRIBUTIONS.—

(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an AD IRA.

(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all AD IRAs maintained for an individual shall not exceed the excess (if any) of—

(A) the maximum amount allowable as a deduction under section 219 for the tax year in excess of $2,000 on behalf of any individual

(B) the amount so allowed.

(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to an AD IRA may be made even after the individual for whom the account is maintained has attained age 70½.

(d) MANDATORY DISTRIBUTION RULES NOT TO APPLY, ETC.—

(A) IN GENERAL.—Subpart A of part I of chapter 1 relating to pension, profit-sharing, stock bonus plans, etc. is amended by striking "or the individual's spouse for the taxable year."'

(B) PHASEOUT AMOUNT. Paragraph (3) of section 219(g) is amended—

(1) IN GENERAL. Clause (ii) of section 219(g)(2) is amended by striking "or the individual's spouse for the taxable year.

(2) INCREASE IN PHASEOUT RANGE FOR JOINT RETURNS.—In the case of any taxable year beginning in a calendar year after 1996, the $2,000 amount under section 219(g)(2)(A) shall be increased by an amount equal to the product of $2,000 and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting "1999" for "1992". If the amount to which $2,000 would be increased under the preceding sentence is not a multiple of $500, such amount shall be rounded to the nearest lower multiple of $500.

(b) CONFORMING AMENDMENTS.—

1) Section 219(f)(3) is amended by striking "$2,000" and inserting "the dollar amount in effect for such taxable year under subsection (b)(1)(A)".

2) Section 219(g)(1) is amended by striking "(c)(1)(A)" and inserting "(c)(1)(A)"

(c) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years beginning after December 31, 1995.
Section 11016. DISTRIBUTIONS FROM CERTAIN PLAN TYPES May Be Used Without Penalty.

Subchapter B—Penalty-Free Distributions

SEC. 11016. DISTRIBUTIONS FROM CERTAIN PLAN TYPES MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOME OR TO PAY HIGHER EDUCATION OR MEDICAL EXPENSES.

(a) In General.—Section 72(t)(2)(A) is amended by striking ``(C),''.

(b) Definitions.—Section 72(t)(2)(A) is amended by striking ``or'' and inserting ``or (C),''.

(c) Conforming Amendments.—Paragraph (7) of section 72(t) is amended by striking ``(or)'' and inserting ``(or (C), (D), or (E))''.

(1) 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 an individual during the 10-month period beginning on the date the distribution is received to purchase or construct a residence that is acquired by the individual after the date of such payment or distribution. The term does not include any payment or distribution received by an individual that is used in respect to such individual for all prior taxable years.

(2) LIFETIME DOLLAR LIMITATION.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of—

(i) $10,000, over

(ii) the aggregate amounts treated as qualified first-time homebuyer distributions with respect to such individual for all prior taxable years.

(3) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term ‘qualified acquisition costs’ means any payment or distribution received by an individual to the extent such payment or distribution is used by an individual—

(A) in the acquisition of a principal residence for which the individual (and if married, such individual’s spouse) had no present ownership interest at the time of acquisition, or

(B) for the purpose of financing, or other closing costs, with respect to a principal residence that is purchased or constructed by the individual on the day before the date the distribution is received.

(4) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

(I) ‘‘first-time homebuyer’’ means an individual (and if married, such individual’s spouse) who is an individual who has not resided in any principal residence throughout any taxable year, and who has no present ownership interest in such individual’s spouse’s principal residence which is located in the United States or its possessions.

(II) ‘‘principal residence’’ means the residence of an individual which is the residence of such individual’s spouse, and

(III) ‘‘qualified first-time homebuyer distribution’’ means any payment or distribution received by an individual to the extent such payment or distribution is used by an individual during the 10-month period beginning on the date the distribution is received to purchase or construct a residence that is acquired by the individual after the date of such payment or distribution.

(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1995.
the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(ii) (determined by subtracting 120 days for '50 days in such section), except that—

(ii) any clause (i) of such section applies to taxable years beginning after December 31, 1995.

Subchapter C—Simple Savings Plans

SEC. 11018. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH PLAN FOR EMPLOYEES

SEC. 11018. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH PLAN FOR EMPLOYEES

(a) In General.—Section 401(k) (relating to qualified plans) is amended by adding at the end the following new clause:

``(m) SIMPLE SAVINGS INCENTIVE MATCH PLAN FOR EMPLOYEES.ÐThis section shall not apply with respect to any amount contributed to a simple savings incentive match plan established under section 408(b).''

(b) Section 219(g)(5)(A) (defining active participant) is amended by striking "or" at the end of clause (iv) and by adding at the end the following new clause:

``(v) an employee described in section 410(b)(3).''

(c) Section 410(b)(3).

(d) Special Rule for Simple Retirement Accounts.—This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(b).''

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.
November 20, 1995

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"(k) TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a simple retirement account under section 408(p).

(b) Section 408(l)(3) is amended by adding at the end the following new subparagraph:

``(ii) A rollover to any other simple retirement account.)''

(c) Clause (i) of section 457(c)(2)(B) is amended by striking "section 402(h)(1)(B)'' or ''(k)'' and inserting ''(k)(5)(C)''.

(d) Section 408(p)(1) is amended by adding at the end the following new paragraph:

``(ii) The term 'top-heavy plan' shall not include a simple retirement account under section 408(p).''

(f) Paragraph (C) of section 408(p) is amended by adding at the end the following new subparagraph:

``(D) any elective employer contribution under section 408(p)(2)(A)(i).''

(h) Paragraph (D) of section 408(p) is amended by adding at the end of clause (ii) the following new clause:

``(i) An 100 percent salary reduction arrangement established pursuant to a qualified salary reduction arrangement under section 401(k) of the Internal Revenue Code of 1986, a participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the assets in the account upon the earliest of—''

(a) an affirmative election with respect to the initial investment of any contribution,

(b) a rollover to any other simple retirement account or individual retirement plan,

(c) any one year after the simple retirement account or individual retirement plan is established.

No rollover, other than those required under section 101(g), shall be required with respect to a simple retirement account established pursuant to a qualified salary reduction arrangement.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1995.

SEC. 11019. EXTENSION OF SIMPLE PLAN TO 401(k) ARRANGEMENTS.

(a) ALTERNATIVE METHOD OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

``(i) The requirements for eligibility for participation.

(b) SIMPLE RETIREMENT ACCOUNTS.—

``(n) The requirements for eligibility for participation.

(i) Benefits with respect to the arrangement.

(ii) The time and method of making elections with respect to the arrangement.

(iii) The benefits provided with respect to the arrangement.

(iv) The time and method of making elections with respect to the arrangement.

(v) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

(C) Employee Notification.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B).

(D) The time and method of making elections with respect to the arrangement.

(E) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

(F) DEDUCTIONS AND CONTRIBUTIONS.—The requirements of this paragraph, other than the requirements of the preceding sentence, are met if the employee's opportunity to make such election described in subparagraph (D) and the arrangements have been described in paragraph (B).

(2) FIDUCIARY DUTIES.—Section 404(c) of such Act (29 U.S.C. 1104(c)) is amended by inserting ''(11)'' after ''(c)'', by redesignating paragraphs (1) through (2) as paragraphs (A) through (B), respectively, and by adding at the end the following new paragraph:

``(2) In the case of a simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986, a participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the assets in the account upon the earliest of—''

(a) an affirmative election with respect to the initial investment of any contribution,

(b) a rollover to any other simple retirement account or individual retirement plan,

(c) any one year after the simple retirement account or individual retirement plan is established.

No rollover, other than those required under section 101(g), shall be required with respect to a simple retirement account established pursuant to a qualified salary reduction arrangement.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.
is also used in section 408(p) shall have the meaning given such term by such section.

"(ii) COORDINATION WITH TOP-HEAVY RULES.—(A) A plan meeting the requirements of this paragraph for any year shall not be treated as a top-heavy plan under section 416 for such year.

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 1022 shall be applied without regard to the period such asset was held by such entity and the deduction shall be computed as if such asset were held by such entity for such year.

(c) TREATMENT OF COLLECTIBLES.—(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term ‘pass-thru entity’ means—

(i) a regulated investment company,

(ii) an estate or trust,

(iii) a real estate investment trust,

(iv) a partnership,

(v) an estate, and

(vi) a common trust fund.

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Paragraph (2) of section 1202 is amended by striking subparagraph (A) as a subpart of section 1202, as amended by sections 11004 and 11005, and by inserting after paragraph (17) the following new paragraph:

"(18) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202 (relating to capital gains deduction) shall not be taken into account for the portion of the taxable year which includes January 1, 1995 (or exchanged of capital assets.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term ‘collectible’ means any capital asset which is a collectible (as defined in section 408(m)) without regard to paragraph (3) thereof.

(2) CHARITABLE DEDUCTION NOT AFFECTED.—(A) Paragraph (1) of section 170(e) is amended by adding at the end the following new sentence: ‘For purposes of this paragraph, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).’

(c) TREATMENT OF COLLECTIBLES.—(1) IN GENERAL.—The rate of tax imposed by section 1 of the excess of—

(A) the amount taken into account as the net capital gain under subsection (a) (or exchanged of capital assets held by such entity and the deduction shall be computed as if such asset were held by such entity for such year.

(B) the net capital gain for the taxable year, shall not exceed 28 percent.

(2) TRANSITIONAL RULE.—(A) The net capital gain for the taxable year determined as if section 1222(b) had not applied to any collectible which is sold or exchanged during the taxable year and the basis of which was fixed before section 1222(a) became effective shall not be treated as a short-term capital gain or loss (as the case may be), with regard to the period such asset was held by such entity and the deduction shall be computed as if such asset were held by such entity for such year.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1995.
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(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

"(3) TRANSITIONAL RULE.—In the case of any amount which is subject to tax under section 852(b)(3)(A) for any taxable year beginning after December 31, 1994, the amount shall be treated as a capital gain dividend.

1. Withholding.—The amendment made by this subsection shall apply to withholding taxes imposed after December 31, 1994.

I. E XCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of section 852(b)(3)(D).

J. A DJUSTMENTS TO INTERESTS HELD IN ENTITY.—

(a) General Rule.—Subsection (d) of section 852(b)(3)(D) shall be treated as a capital gain dividend.

(b) Short sale period.—For purposes of subsection (d), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

2. Real estate investment trusts.—Stock in a real estate investment trust (within the meaning of section 852(b)(3)(D)) shall be treated as a capital gain dividend.

(c) Qualified investment companies.—Stock in a qualified investment company (within the meaning of section 852(b)(3)(D)) shall be treated as a capital gain dividend.

(d) Qualified real estate investment trusts.—Stock in a qualified real estate investment trust (within the meaning of section 852(b)(3)(D)) shall be treated as a capital gain dividend.
ELECTIONS.—In the case of a transfer of an interest in stock acquired after December 31, 2000, for purposes of this section, the term `related persons' would (but for this section) be defined as related persons (as defined in section 1022(g)(2) of such Code) to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

(3) A PERSON TREATED AS SINGLE EMPLOYER.—For purposes of this section, in the case of a transfer of an interest in stock acquired after December 31, 2000, for purposes of this section, the term `related persons' would (but for this section) be defined as related persons (as defined in section 1022(g)(2) of such Code) to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this section, the term `qualified investment entity' means—

(A) a regulated investment company (within the meaning of section 851),

(B) a real estate investment trust (within the meaning of section 856, as modified by section 1221 of the Internal Revenue Code of 1986),

(C) a small business investment company (within the meaning of section 1225 of such Code),

(D) any entity which has a readily tradable stock (which is an index stock) held for more than 5 years, then the tax imposed by this subsection shall not exceed the sum of—

(A) the tax imposed by this subsection, and

(B) the tax imposed by this subsection, plus

(1) the differences between the basis of the stock of the investor in such corporation and the basis of the stock of the corporation in such qualified small business stock, plus

(2) the differences between the basis of the stock of the corporation in such qualified small business stock and the basis of the stock of the investor in such corporation.

(5) Adjacent property.—For purposes of this subsection, an investment that is adjacent to the property of another investor shall be treated as an investment of the same investor.

(6) Related persons.—For purposes of this section, the term `related persons' means—

(A) any persons bearing a relationship set forth in section 267(b), and

(B) persons treated as single employer under subsection (b) or (c) of section 414.
(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) Subsection (a) of section 57 is amended by striking paragraph (7).

(2) Subclause (I) of section 53(d)(1)(B) is amended—

(a) by striking "5", and

(b) by inserting "and".

(c) STOCK OF LARGER BUSINESSES ELIGIBLE FOR REDUCED RATES.—Paragraph (1) of section 1203(d), as redesignated by section 11201, is amended by striking "$50,000,000" each place it appears and inserting "$100,000,000".

(d) ELECTION OF ISSUER LIMITATION.—Section 1202, as so redesignated, is amended by striking subsection (b).

(e) OTHER MODIFICATIONS.—

(1) REDUCTION OF CAPITAL LIMITATION.—Paragraph (6) of section 1203(e), as so redesignated, is amended—

(A) by striking "2 years" in subparagraph (B) and inserting "5 years"; and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1203(c), as so redesignated, is amended by adding at the end the following new subparagraph:

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"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE SERVICES AND INSURANCE.

(a) IN GENERAL.—Chapter 79 (relating to contributions by payors) is amended by inserting after section 7702A the following new section:

``SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE SERVICES AND INSURANCE.

``(a) IN GENERAL.—For purposes of this title—

``(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

``(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 106),

``(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan (as defined in section 213(d)),

``(4) except as provided in subsection (d)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

``(5) a qualified long-term care insurance contract for which a guaranteed renewable contract subject to the rules of section 816(e).

``(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

``(1) CONTRACT.—The term 'qualified long-term care insurance contract' means any insurance contract if—

``(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

``(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

``(C) such contract is guaranteed renewable,

``(D) such contract does not provide for a cash surrender value or other money that can be—

``(i) paid, assigned, or pledged as collateral for a loan,

``(ii) borrowed, other than as provided in subparagraph (E) or paragraph (2)(C),

``(E) refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

``(F) such contract meets the requirements of subsection (f).

``(2) SPECIAL RULES.—(A) IN GENERAL.—Excludable payments permitted.—A contract shall not fail to be described in subsection (f) or of excludable payments permitted if—

``(i) the amount of any contributions by the payor (other than contributions to the extent such contributions are in excess of the dollar amount in effect for such period under subparagraph (C)), such excess payments shall be treated as made for qualified long-term care services only to the extent of the costs incurred by the payee (not otherwise compensated for by insurance or otherwise) for qualified long-term care services provided to the payee under such insured.

``(B) PERIODIC PAYMENTS.—For purposes of subparagraph (A), the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

``(C) DOLLAR AMOUNT.—The dollar amount in effect under this paragraph shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

``(3) APPLICATION AD JOURNED WITH RESPECT TO THE CONTRACTS.—Except as otherwise provided by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on a life insurance contract—

``(1) in general.—This section shall apply as if the portion of the contract providing such coverage is a separate contract,

``(2) APPLICATION OF 7702B.—Section 7702B(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date:

``(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702B(c)(2)) that is less than the dollar amount in effect under this subsection at date under the contract, less

``(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702B(c)(2)) unless such charges are includable in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (a) of section 7702B,

``(C) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance contract.

``(4) PORTION METHOD.—Clause (ii) of section 7702B(c)(3)(A) is amended by inserting 'other than a qualified long-term care insurance contract, as defined in section 7702B(b) after 'in such contract.'

``(5) CONTEMPORARY BUCKETING.—Long-term care insurance not permitted under cafeteria plans or flexi
dible spending arrangements.

``(a) IN GENERAL.—Title 7702B (relating to treatment of qualified long-term care insurance coverage) is amended by inserting at the end the following new section:

``(b) FLEXIBLE SPENDING ARRANGEMENTS.—The text of section 106 (relating to contributions by payors) is amended by adding at the end the following new text:

``(c) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—Title 7702B is amended by—

``(a) IN GENERAL.—Effective on and after January 1, 1996, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(b)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

``(B) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—
“(A) specified incurred expenses may be re- 
imbursed (subject to reimbursement maximums and other reasonable conditions), and 
(B) the maximum amount of reimbursement 
which may be payable to a participant in the 
such plan (as defined in section 7702(b) of such Code) for coverage of such individual, for 
any calendar year, exceeds $2,000.

(3) E XCEPTIONS.—

(1) A participant in a qualified long-term care insurance contract may make an in- 
stance (as defined in section 7702(b)) for coverage of such individual or the spouse 
or dependent of such individual, for any calendar year, exceeds $2,000.

(2) In the case of an individual with an attained age before the close of the taxable 
year of: 

(i) 60 or less ........... $200

(ii) 61 or more ........... 750

(3) In the case of an individual with an attained age before the close of the taxable 
year of: 

(i) 60 or less ........... $200

(ii) 61 or more ........... 750

(3) E F FECTIVE DATE.—The amendments made by this section shall apply to 
taxable years beginning after December 31, 1995.

SEC. 11043. C ERTAIN EX CHANGES OF L IFE INSUR ANCE CONTRACTS FOR Q UA LIFIED L ONG-TERM C ARE I NSUR ANCE C ONTRACTS N OT TAX ABLE.

(a) I N G ENERAL.—Subsection (a) of section 1001(b)(3), to the extent such changes in 
insurance contracts are made by striking the period at the end of paragraph (3) and inserting 
"; or", and by adding at the end the following new paragraph:

"(4) a contract of life insurance or an endow- 
ment or annuity contract for a qualified long-
term care insurance contract (as defined in sec-
 tion 7702(b));"

(b) E F FECTIVE DATE.—The amendments made by this section shall apply to taxable 
years beginning after December 31, 1995.

SEC. 11044. E XCEPTION FROM P ENALTY T AX FOR A MOUNTS WITH DRAWN FROM C ERTAIN R ETIREMENT P LANS FOR Q UA LIFIED L ONG-TERM C ARE I NSUR ANCE.

(a) I N G ENERAL.—Paragraph (2) of section 72(t) is amended by adding at the end the follow-
ing new subparagraph:

"(F) PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—

(b) D ISTR IBUTIONS PERMITTED F ROM CERTAIN P LANS TO P AY L ONG-TERM C ARE P REMIUMS.—

(1) Section 401(k)(2)(B)(ii) is amended by striking 
"or" at the end of subclause (I), by striking 
"and" at the end of subclause (II), by inserting 
"or", and by inserting after subclause (IV) the following new subclause:

"(V) the date distributions for premiums for a long-
term care insurance contract (as defined in sec-
 tion 7702(b)) for coverage of such individual or the spouse of such individual are made, and

(2) Section 403(b)(1) is amended by striking 
"or" at the end of subclause (A), by striking 
"and" at the end of subclause (B) and inserting 
"; or", by striking "subparagraph (A)" and inserting "subparagraphs (A), (B), and (C)", and
"or", and by inserting after subparagraph (C) the following new subparagraph:

"(C) for the payment of premiums for a long-
term care insurance contract (as defined in sec-
 tion 7702(b)) for coverage of such individual or the spouse of such individual, are made, and

II. IN GENERAL.—

In the case of a qualified long-term care insurance contract (as defined in section 7702(b)), 
only eligible long-term care premiums (as defined in paragraph (11)) shall be taken into ac-
count under subparagraph (D)."

(3) Subparagraph (d) of section 213 is amended by adding at the end the following new para-
graph:

"(D) the maximum amount of reimbursement 
for such coverage is less than 500 percent of the 
amount paid during a taxable year for such coverage.

(4) In the case of a qualified long-term care insur-
ance contract (as defined in section 7702(b)), only eligible long-term care premiums (as 
defined in paragraph (11)) shall be taken into ac-
count under subparagraph (D)."

(5) Subsection (c) of section 457(d) is ame-
ded by striking "subparagraph (A) and (B)"
and inserting "subparagraphs (A), (B), and (C)", and
by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702(c)), or";

(6) In general.—For purposes of this section, 
the term 'eligible long-term care premiums' 
means the amount paid during a taxable year for any qualified long-term care insurance con-
tract (as defined in section 7702(b)) covering 
services provided under, or reimbursed by, 
a corporation or partnership which is 
related (within the meaning of section 267(b) or 
707(b)) to the individual.

In the case of a qualified long-term care insur-
ance contract (as defined in section 7702(b)), 
only eligible long-term care premiums (as 
defined in paragraph (11)) shall be taken into ac-
count under subparagraph (D)."

(7) Subsection (d) of section 213 is amended by adding at the end the following new para-
graph:

"(E) the maximum amount of reimbursement 
for such coverage is less than 500 percent of the 
amount paid during a taxable year for such coverage.

(8) In general.—For purposes of this section, 
the term 'eligible long-term care premiums' 
means the amount paid during a taxable year for any qualified long-term care insurance con-
tract (as defined in section 7702(b)) covering 
services provided under, or reimbursed by, 
a corporation or partnership which is 
related (within the meaning of section 267(b) or 
707(b)) to the individual.

In the case of a qualified long-term care insur-
ance contract (as defined in section 7702(b)), 
only eligible long-term care premiums (as 
defined in paragraph (11)) shall be taken into ac-
count under subparagraph (D)."

(9) TECHNICAL AMENDMENTS.—

(a) The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the follow-
ing new item:

"(Sec. 7702A. Treatment of qualified long-term 
care insurance contracts.)"
SEC. 11045. REPORTING REQUIREMENTS.
(a) In general.—Subpart B of part III of subchapter A of chapter 61, as amended by section 11004, is amended by adding at the end the following new section:

"SEC. 6050R. CERTAIN LONG-TERM CARE BENEFITS.

"(a) Requirement of Reporting.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid to such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) Statements to Be Furnished to Persons on Account of Which Amounts Have Been Followed.—If any long-term care insurance policy issued under subsection are met with respect to any contract prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid to such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(c) Long-Term Care Benefits.—For purposes of this section, the term `long-term care benefit' means any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e))."

(b) Penalties.—

(1) SEC. 6050R. CERTAIN LONG-TERM CARE BENEFITS.

(2) Paragraph (2) of section 6724(d), as amended by section 11004, is amended by redesignating clauses (x) through (xxv) as clauses (xi) through (xlv), respectively, and by inserting after clause (ix) the following new clause:

"(x) section 6050R (relating to certain long-term care benefits)."

(c) Effective Date.—The amendments made by this section shall apply to benefits paid after December 31, 1995.

PART II—CONSUMER PROTECTION PROVISIONS

SEC. 1105L POLICY REQUIREMENTS.

Section 7702B (as added by section 11041) is amended by adding at the end the following new section:

"(f) Consumer Protection Provisions.—

"(1) In General.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) Requirements of Model Regulation and Act.—

"(A) In General.—The requirements of this paragraph are met with respect to any policy if such policy—

"(i) Model Regulation.—The following requirements of the model regulation:

"(ii) Section 7A (relating to guaranteed renewals or noncancellation), and the requirements of section 6B of the model Act relating to such section 7A.

"(iii) Section 7B (relating to prohibitions on limitations and exclusions).

"(iv) Section 7C (relating to extension of benefits).

"(v) Section 7D (relating to conversion of coverage)."
SEC. 11053. COORDINATION WITH STATE REQUIREMENTS

Nothing in this part shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4890(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 11054. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1995. The provisions added by section 11041(g) of this Act (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 11052 shall apply to actions taken after December 31, 1995.

Subchapter B—Treatment of Accelerated Death Benefits

SEC. 11061. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new section:

"(g) TREATMENT OF ACCELERATED DEATH BENEFITS.—

(1) IN GENERAL.—For purposes of this section, the term ‘qualified accelerated death benefit rider’ means an amount paid for such sale or assignment of, or any portion of such contract is sold to, any viatical settlement provider for purposes of section 11052(b) of this Act.

(2) TREATMENT OF ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to accelerated death benefit riders) is amended by adding at the end the following new subsection:

"(3) CORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—No deduction shall be allowed under this section for any amount paid as premium contributions to a health plan under section 106(b) for some but not all months of the taxable year.

(3) MONTHLY LIMITATION.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month in which such individual's taxable year begins.

(4) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section for any amount paid to any medical savings account established by an eligible individual who is the spouse or any dependent of such individual.

CHAPTER 2—MEDICAL SAVINGS ACCOUNTS

SEC. 11066. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter C of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. MEDICAL SAVINGS ACCOUNTS.

(a) DEDUCTION.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

(b) LIMITATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount allowable under this subsection for any individual for the taxable year shall not exceed—

(A) as provided in subparagraph (A), the lesser of—

(i) $2,000, or

(ii) the annual deductible limit for any individual covered under the high deductible health plan

(B) in the case of a high deductible health plan covering the taxpayer and any other eligible individual who is the spouse or any dependent (as defined in section 132) of the taxpayer, the lesser of—

(i) $4,000, or

(ii) the annual deductible limit under the plan on the aggregate amount of deductible required to be paid by all individuals.

The preceding sentence shall not apply if the spouse of such individual is covered under any other high deductible health plan.

(2) SPECIAL RULE FOR MARRIED INDIVIDUALS.—

(A) IN GENERAL.—This subsection shall be applied separately for each married individual.

(B) SPECIAL RULE.—If individuals who are married to each other cover the same high deductible health plan, then the amounts applicable under paragraph (1)(B) shall be divided equally between them unless they agree on a different division.

(3) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—No deduction shall be allowed under this section for any amount paid for any taxable year with respect to a medical savings account of an individual if—

(A) any amount is paid to any medical savings account of such individual which is excludable from gross income under section 106(b) for such year, or

(B) in a case described in paragraph (2), any amount is paid to any medical savings account of either spouse which is so excludable for such year.

(4) PRORATION OF LIMITATION.—

"(A) IN GENERAL.—The limitation under paragraph (1) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

(1) the deductible under the high deductible health plan covering such individual is the same throughout such taxable year, or

(2) such limitation is determined under paragraph (1)(B) for some but not all months during such taxable year.

(5) MONTHLY LIMITATION.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month in which such individual's taxable year begins.

(6) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section for any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

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

(A) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means, with respect to any month, any individual who is covered under a high deductible health plan as of the 1st day of such month, and
(ii) who is not, while covered under a high deductible health plan, covered under any health plan—

(iii) who is not a high deductible health plan, and

(iv) who provides coverage for any benefit which is covered under the high deductible health plan.

(B) IN GENERAL.—Subparagraph (A)(iii) shall be applied without regard to—

(iii) coverage for any benefit provided by permitted insurance, and

(ii) coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, and long-term care.

(4) TERMINATION.—The term ‘high deductible health plan’ means a health plan which—

(A) is an annual deductible plan for each individual covered by the plan which is not less than $1,500, and

(B) has an annual limit on the aggregate amount of deductibles required to be paid with respect to all individuals covered by the plan which is not less than $3,000.

Such term does not include a health plan if substantially all of its coverage is coverage described in paragraph (A)(iii).

(5) PERMITTED INSURANCE.—The term ‘permitted insurance’ means—

(A) Medicare supplemental insurance, and

(B) insurance if substantially all of the coverage provided under such insurance relates to—

(i) liabilities incurred under workers’ compensation laws,

(ii) tort liabilities,

(iii) liabilities relating to ownership or use of property, or

(iv) such other similar liabilities as the Secretary may specify by regulations.

(6) INSURANCE.—For the purposes of this section—

(A) The trustee is a bank (as defined in section 408(e)).

(B) The assets of the trust will not be commingled with other property except in a common investment fund.

(C) No part of the trust assets will be invested in a common investment fund.

(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

(E) The interest of an individual in the balance in his account is nonforfeitable.

(F) QUALIFIED MEDICAL EXPENSES.—The term ‘qualified medical expenses’ means, with respect to an account holder, amounts paid by such holder for medical care (as defined in section 213(d)) for such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

(G) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to any payment for insurance.

(ii) EXCEPTIONS.—Clause (i) shall not apply to any expense for coverage under—

(A) a health plan during a period in which the individual is receiving unemployment compensation under State law;

(B) a qualified long-term care contract (as defined in section 7702B); or

(C) a health plan during a period in which the individual is receiving unemployment compensation under Federal law.

(iii) ACCOUNT HOLDER.—The term ‘account holder’ means the individual on whose behalf the medical savings account was established.

(6) TERMINATION.—Rules similar to the following rules shall apply for purposes of this section:

(A) Section 219(d)(2) (relating to no deduction for rollovers).

(B) Section 219(f)(3) (relating to time when contributions deemed made).

(C) Except as provided in section 106(b), section 219(f)(5) (relating to employer payments).

(D) Section 408(g) (relating to community property laws).

(E) Section 408(h) (relating to custodial accounts).

(F) TAX TREATMENT OF ACCOUNTS.—

(1) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder (or any spouse or dependent of the holder) shall not be includible in gross income.

(ii) The amount used for the benefit of a medical savings account holder’s spouse or former spouse under a divorce or separation instrument described in subparagraph (A) shall be treated as an expense paid for medical care.

(iii) A medical savings account if, at any time during the 1-year period ending on the date of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual’s gross income because of the application of this paragraph.

(D) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount used or included in gross income under such rules shall be treated as not used to pay qualified medical expenses.

(E) TAX TREATMENT OF DISTRIBUTIONS.—

(1) AMOUNTS USED FOR QUALIFIED MEDICAL EXPENSES.—

(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder (or any spouse or dependent of the holder) shall be includible in the holder’s gross income for the taxable year in which such amounts were paid or distributed.

(B) TREATMENT AFTER DEATH OF ACCOUNT HOLDER.—

(i) TREATMENT IF HOLDER IS SPouse.—If, after the death of the account holder, the account holder’s interest is payable to (or for the benefit of) the holder’s spouse, the medical savings account shall be treated as if the spouse were the account holder.

(ii) TREATMENT IF DESIGNATED HOLDER IS NOT SPOUSE.—If the account holder’s interest in the medical savings account is payable to (or for the benefit of) any person other than the holder’s spouse upon the death of such holder—

(1) such account shall cease to be a medical savings account as of the date of death, and

(2) an amount equal to the fair market value of the assets in such account on such date shall be includible in such person’s gross income for the taxable year in which such death occurred, or if such person is the estate of such holder, in such holder’s gross income for the last taxable year of such holder.

(F) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of any account holder or any spouse or dependent of such holder shall be included in the gross income of such holder.

(B) SPECIAL RULES.—For purposes of subparagraph (A)—

(i) all medical savings accounts of the account holder shall be treated as 1 account,
such manner as may be required by those regu-
nished to such individuals at such time and in
matters as the Secretary determines appropriate.

The reports required by this subsection shall be 
contributions, distributions, and such other
sections.

(20) the following new paragraph:

``or'' at the end of paragraph (19), by striking 
section (a) of section 3401 is amended by striking 
TENSIONS TO MEDICAL SAVINGS ACCOUNTS.Ð 

``(i) EXCEPTIO FROM CAPITALIZATION OF PO
ACQUISITION EXPENSES.ÐSubparagraph (B) of 
section 848(e)(1) (defining specified insurance 
contract) is amended by striking `"and" at the 
end of clause (i), by striking the period at the 
end of clause (iii) and inserting `", and''), and by 
adding at the end the following new clause:

``(iv) any contract which is a medical savings 
account (as defined in section 222(d)).''.

``(j) CLERICAL AMENDMENT.ÐThe table of 
sections for part VII of subsection 8 of chapter 1 
shall be amended by striking the last item and insert-
the following:

``Sec. 222. Medical savings accounts.
Sec. 223. Cross reference.''

(k) EFFECTIVE DATE.ÐThe amendments made 
by this section shall apply to taxable years be-
ting after December 20, 1995.

CHAP TER 3—INCREASE IN DEDUCTION FOR 
HEALTH INSURANCE COSTS OF 
SELF-EMPLOYED INDIVIDUALS

SEC. 11068. INCREASE IN DEDUCTION FOR 
HEALTH INSURANCE COSTS OF 
SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.ÐParagraph (1) of section 162(d) 
is amended as follows:

``(1) ALLOWMENT OF DEDUCTION.Ð

``(A) in the case of an individual who is an employee within the meaning of section 415(c)(1), there shall be allowed as a de-
duction 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.ÐFor purposes of subparagraph (A), the applicable percentage 
shall be determined under the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996 or 1997</td>
<td>30</td>
</tr>
<tr>
<td>1998 or 1999</td>
<td>35</td>
</tr>
<tr>
<td>2000 or 2001</td>
<td>40</td>
</tr>
<tr>
<td>2002 or thereafter</td>
<td>50</td>
</tr>
</tbody>
</table>

(b) EFFECTIVE DATE.ÐThe amendment made by 
this section shall apply to taxable years begin-
ing after December 31, 1995.

Subtitle D—Estate and Gift Provisions

SEC. 1107. COST-OF-LIVING ADJUSTMENTS RE-
LATING TO ESTATE AND GIFT TAX PROVISIONS.

(a) INCORPORATE UNIFIED ESTATE AND GIFT 
TAX CREDIT.—

``(e) ESTATE TAX CREDIT.—

``(A) Subsection (a) of section 2010 (relating to 
unified estate and gift tax) is amended by stricking 
"$192,800" and inserting "the applicable 
credit amount".

``(B) Section 2010 is amended by redesignating 
subsection (c) as subsection (a) and inserting after 
subsection (b) the following new subsection:

``(C) APPLICABLE CREDIT AMOUNT.—For pur-
poses of this section:

``(1) IN GENERAL.—The applicable credit 
amount is the amount of the tentative tax which
In the case of estates of decedents dying in calendar years 1996 through 2001, the $750,000 amount set forth in paragraph (1) shall be increased by an amount equal to—

(A) $750,000, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 1999’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.

In the case of estates of decedents dying in calendar year 2000, the $750,000 amount contained in section 2001(c) is amended by substituting ‘calendar year 2000’ for ‘calendar year 1999’ in subparagraph (B) thereof. If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

The applicable exclusion amount in effect under section 2032A is amended by adding at the end the following new subsection:

SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

(a) In General.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

SEC. 2033A. FAMILY OWNED BUSINESS EXCLUSION.

(a) In General.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

(1) the adjusted value of the qualified family-owned business interests of the decedent other than includible in the estate, or

(2) the sum of—

(A) $1,000,000, plus

(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,000,000, not over $2,500,000.

(b) Estates to Which Section Applies.—In general. This section shall apply to estates—

(1) in which the decedent was (at the date of the decedent’s death) a citizen or resident of the United States;

(2) the sum of—

(A) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 1999’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.

The amount at which the average tax rate under section 2001(c) is determined shall be rounded to the nearest multiple of $1,000.
the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

''(c) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $1,000,000.

''(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means--

'(A) an interest as a proprietor in a trade or business carried on by the decedent, or

'(B) an interest in an entity carrying on a trade or business, if--

'(i) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

'(ii) 70 percent of such entity is so owned by members of 2 families, or

'(iii) 90 percent of such entity is so owned by members of 3 families, and

'(ii) for purposes of clause (i) or (iii) of subparagraph (A), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

''(2) LIMITATION.—Such term shall not include--

'(A) any interest in a trade or business the principal place of business of which is not located in the United States, or

'(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 542(c)(2)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years after the date of the decedent's death.

''(c) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

''(D) that portion of an interest in a trade or business that is attributable to--

'(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

'(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), or (D) of section 543(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation'),

''(3) RULE REGARDING OWNERSHIP.—

'(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

'(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

'(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

'(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if reason held by or for a partnership in a trade or business is a qualified family-owned business interest, and

'(i) such partnership interest in any other trade or business is a qualified family-owned business interest,

'(ii) such partnership interest in the other trade or business shall be disregarded in determining if the trade or business in the first trade or business is a qualified family-owned business interest, and

'(iii) this section shall be applied separately in determining such interest in any other trade or business is a qualified family-owned business interest.

''(c) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned, directly or indirectly, by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

''(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

''(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified family-owned business interest which was acquired (or passed) from the decedent,

'(A) the material participation requirements described in section 2032A(c)(16)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

'(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

'(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsections (a) and (b) of section 877(e)(2), or

'(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

''(2) ADDITIONAL ESTATE TAX.—

'(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to--

'(i) the applicable percentage of the adjusted gross estate attributable to the qualified family-owned business interest as determined under rules similar to the rules of section 2032A(c)(2)(B), plus

'(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

''(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

<table>
<thead>
<tr>
<th>Percentage of Material Participation</th>
<th>Taxable Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 through 6</td>
<td>100</td>
</tr>
<tr>
<td>7</td>
<td>50</td>
</tr>
<tr>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td>10</td>
<td>0</td>
</tr>
</tbody>
</table>

''(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

''(1) IN GENERAL.—Except upon the application of subsection (f) or (M) of section 2032A(a)(2), if a qualified heir is not a citizen of the United States, the requirements described in subsection (f) or (M) of section 2032A(a)(2) (determined by substituting 'trade or business' for 'controlled foreign corporation'),

''(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust--

'(A) which is organized under, and governed by, the laws of the United States or a State, and

'(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

''(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

'(1) QUALIFIED HEIR.—The term 'qualified heir' has the meaning given to such term by section 2032A(e)(1), and

'(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

''(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

''(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

'(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

'(B) Section 2032A(b)(7) (relating to special rules for surviving spouses).

'(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

'(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

'(E) Section 2032A(c)(14) (relating to due date).

'(F) Section 2032A(c)(15) (relating to liability for tax; furnishing of bond).

'(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years of active management by eligible qualified heir treated as material participator).

'(H) Section 2032A(e)(10) (relating to community property).

'(i) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

'(j) Section 2032A(f) (relating to statute of limitations).

'(K) Section 6166(b)(3) (relating to farmhouses and other structures taken into account).

'(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

'(M) Section 6324B (relating to special lien for additional estate tax).

''(k) COORDINATION WITH OTHER ESTATE TAX BENEFITS.—If there is a reduction in the value of the gross estate under this section—

'(A) the dollar limitation applicable under section 2032A(a)(2), and

'(B) the $1,000,000 amount under section 6601(c)(3) (as adjusted), shall each be reduced (but not below zero) by the amount of such reduction.

''(l) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

'"Sec. 2033A. Family-owned business exclusion.",'

''(m) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

SEC. 11073. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

''(a) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

''(1) IN GENERAL.—Except upon the application of subparagraph (f) or (M) of section 2032A(a)(2), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir by reason of any interest held by such heir at a time described in subsection (f)(1)(C) shall be treated as a qualified family-owned business interest only if such interest was or is acquired (or is held) in a qualified trust.

''(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust--

'(A) which is organized under, and governed by, the laws of the United States or a State, and

'(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

''(A) the value of land subject to a qualified conservation easement, reduced by the amount
of any deduction under section 2055(f) with respect to such land, or
(8) the excess (if any) of $5,000,000 over the lesser of
(i) $2,500,000, or
(ii) the adjusted value of the qualified family-owned business interests of the decedent determined under section 2032A(b).

(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term ‘applicable percentage’ means 40 percent reduced (but not below zero) by 2 percentage points for each percentage point (or fraction thereof) by which the value of the qualified conservation easement is less than 30 percent of the value of the land (determined without regard to the value of such easement and reduced by the value of any retained development right as defined in paragraph (4)).

(3) CERTAIN INDEBTEDNESS.—(A) IN GENERAL.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

(B) DEFINITIONS.—For purposes of this paragraph—
(i) DEBT-FINANCED PROPERTY.—The term ‘debt-financed property’ means any property with respect to which there is an indebtedness (as defined in clause (ii)) on the date of the decedent’s death.

(ii) ACQUISITION INDEBTEDNESS.—The term ‘acquisition indebtedness’ means, with respect to debt-financed property, the unpaid amount of—
(I) the indebtedness incurred by the donor in acquiring such property;

(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition;

(iii) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition;

(iv) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition;

(v) the extension, renewal, or refinancing of an acquisition indebtedness.

(4) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

(B) RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in the land executes an agreement to extinguish permanently all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

(C) ADDITIONAL TAX.—Any failure to implement the agreement described in subparagraph (B) not later than the earlier of—
(i) the date which is 2 years after the date of the decedent’s death, or
(ii) the date of the sale of such land subject to the qualified conservation easement, shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following such date.

(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term ‘development right’ means any right to use the land subject to the qualified conservation easement in such a manner as to make the property which is not subordinate to and directly supportive of the use of such land as a farm for farming purposes (within the meaning of section 642(c)).

(E) ELECTION.—The election under this subsection shall be made on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable.

(5) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3)) retained by the donor in the conveyance of such a qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

(6) DEFINITIONS.—For purposes of this subsection—
(A) LAND SUBJECT TO A QUALIFIED CONSERVA-
TION EASEMENT.—The term ‘land subject to a qualified conservation easement’ means land—
(I) which is located—
(i) in or within 25 miles of an area which, on the date of the decedent’s death, is a metropolitan area (as defined by the Office of Management and Budget);

(ii) in or within 25 miles of an area which, on the date of the decedent’s death, is a national park or wilderness area designated as part of the National Park System (unless it is determined by the Secretary that land in or within 25 miles of such a park or wilderness area is not under significant development pressure);

(iii) in or within 10 miles of an area which, on the date of the decedent’s death, is an Urban National Forest (as designated by the Forest Service);

(ii) which was owned by the decedent or a member of the decedent’s family at all times during the 3-year period ending on the date of the decedent’s death and

(iii) with respect to which a qualified conservation easement has been made by the decedent or a member of the decedent’s family.

(B) QUALIFIED CONSERVATION EASEMENT.—The term ‘qualified conservation easement’ means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (ii) of section 170(h)(4)(A) shall not apply, and the restriction on the use of such interest described in section 170(h)(2)(C) shall include a prohibition on commercial recreational activity.

(C) MEMBER OF THE DECEDED’S FAMILY.—The term ‘member of the decedent’s family’ means any member of the family (as defined in section 2032A(e)(2)) of the decedent.

(D) APPLICATION OF THIS SECTION TO INTER-
ESTS IN PARTNERSHIPS, CORPORATIONS, AND
TRUSTS.—This section shall apply to an interest in a partnership, corporation, or trust if at least 30 percent of the interest is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2033A(e)(3).”.

(b) CARRYOVER BASIS.—Section 1014(a) (relating to carryover basis with respect to property in a qualified conservation contribution) shall be applied in a manner similar to the manner in which section 1014 is applied in the case of the exchange of property for property in a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)).

(c) MEMBERS OF TARGETED GROUPS.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.
(d) Members of Targeted Groups.—For purposes of this subpart—
(1) In general.—An individual is a member of a targeted group if such individual is—
(A) a qualified ex-felon,
(B) a qualified summer youth employee,
(C) the child of a qualified summer youth employee,
(D) a member of a family which had, within 3 years immediately preceding the month in which the hiring date occurs, which, on an annual basis, received payment of more than 10 percent of the median income for such area as determined by the Bureau of Labor Statistics, or
(E) a recipient of public assistance.

(2) in the case of an individual who is a member of a targeted group—
(A) in the case of a targeted group specified in subparagraph (A), (B), (C), (D), or (E) of paragraph (1) of this section is not required to be identified by the designated local agency as being—
(i) a member of that targeted group, or
(ii) as being a member of another targeted group.

(3) to individuals who—
(A) are members of a targeted group,
(B) have not been employed for at least 6 months previously by the employer,
(C) have not been employed by the employer for at least 90 days during the 6-month period described in subparagraph (B) of this paragraph,
(D) have not been employed by the employer for at least 1 year after the last date on which such individual was last employed by the employer during any period prior to the 90-day period described in subparagraph (B) of this paragraph,
(E) have not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B) of this paragraph,
(F) have not been certified by the designated local agency as having his principal place of abode within an empowerment zone or enterprise community,
(H) have not been employed by the employer for at least 90 days during the 6-month period described in subparagraph (B) of this paragraph,(i) during the 90-day period ending on the date of the offer of employment to the employer, or (ii) during the 90-day period ending on the date of the offer of employment to the employer,
(I) have not been employed by the employer for at least 90 days during the 6-month period described in subparagraph (B) of this paragraph,(i) for purposes of clause (ii), (ii) during the 3-month period immediately preceding the month in which the offer of employment is made to the employer, and (iii) have not been employed by the employer for at least 90 days during the 6-month period described in subparagraph (B) of this paragraph,
(J) who is an individual who is determined to be a member of a targeted group,
(K) who is a member of a targeted group, or
(L) any individual who—
(i) is a member of a family which had, within 3 years immediately preceding the month in which the offer of employment is made to the employer, which, on an annual basis, received payment of more than 10 percent of the median income for such area as determined by the Bureau of Labor Statistics, or
(ii) is determined to be a member of a targeted group.

(4) to any individual unless such individual—
(A) is a member of a targeted group,
(B) has not been employed by the employer for at least 90 days during the 6-month period described in subparagraph (B) of this paragraph,
(C) is a member of a targeted group,
(D) is a member of a targeted group,
(E) is a member of a targeted group,
(F) is a member of a targeted group,
(G) is a member of a targeted group,
(H) is a member of a targeted group,
(I) is a member of a targeted group,
(J) is a member of a targeted group,
(K) is a member of a targeted group,
(L) is a member of a targeted group,
(M) is a member of a targeted group,
(N) is a member of a targeted group,
(O) is a member of a targeted group,
(P) is a member of a targeted group,
(Q) is a member of a targeted group,
(R) is a member of a targeted group,
(S) is a member of a targeted group,
(T) is a member of a targeted group,
(U) is a member of a targeted group,
(V) is a member of a targeted group,
(W) is a member of a targeted group,
(X) is a member of a targeted group,
(Y) is a member of a targeted group,
(Z) is a member of a targeted group.

(5) Special Rules for Determining Amount of Credit.—For purposes of determining the amount of credit for any individual who—
(A) is a member of a targeted group,
(B) has not been employed by the employer for at least 90 days during the 6-month period described in subparagraph (B) of this paragraph, or
(C) is a member of a targeted group,

(6) Technical Amendments.—
(1) Section 38(b)(2) and 51(a) are each amended by striking “qualified jobs credit” and inserting “qualified experience credit”.

(7) Limitation to Education Below Graduate Level.—The last sentence of section 127(c)(1) is amended by inserting before the period “or at the graduate level”.

Sec. 11112. Employer-Provided Educational Assistance Programs.
(a) Extension.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking “December 31, 1994” and inserting “December 31, 1996”.

(b) Limitation to Education Below Graduate Level.—The last sentence of section 127(c)(1) is amended by inserting before the period “or at the graduate level”.

(c) Effective Dates.—

(3) The amendments made by this section shall not apply to individuals who begin work for the employer after December 31, 1995.

(4) The amendments made by this section shall not apply to individuals who begin work for the employer after December 31, 1994.

(5) The amendments made by this section shall not apply to individuals who begin work for the employer after December 31, 1995.

(6) The amendments made by this section shall not apply to individuals who begin work for the employer after December 31, 1994.
SEC. 11113. RESEARCH CREDIT.  
(a) In General.—Subsection (h) of section 41 (relating to credit for research activities) is amended—  
(1) by striking “June 30, 1995” each place it appears and inserting “December 31, 1996,” and  
(2) by striking “[July 1, 1995] each place it appears and inserting “[January 1, 1997].”  
(b) In General.—(1) In General.—Section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is transferred to subpart D of part IV of subchapter A of chapter 1, inserted after section 45B, and redesignated as section 45C.  
(2) Conforming Amendment.—Subsection (b) of section 35 (relating to general business credit) is amended by striking “plus” at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting “; plus”, and by adding at the end of the following new paragraph:  
“(12) the orphan drug credit determined under section 45C(a).”  
(c) Conformity Amendments.—  
(A) The table of sections for subpart B of such part IV is amended by striking the item relating to section 27 and  
(B) The table of sections for subpart D of such part IV is amended by adding at the end the following new item:  
“Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or conditions.”.  
(d) Increased Credit for Contract Research Consortia.—Section 41(e)(1) is amended by striking the term “qualified research consortium” and inserting “the term ‘qualified research consortium’ means any organization described in subsection (a)(2) if—  
(i) at least 15 unrelated taxpayers paid during the taxable year the total amounts paid by the taxpayer to such organization for qualified research,  
(ii) no 3 persons paid during such calendar year more than 50 percent of the total amounts paid during such calendar year for qualified research, and  
(iii) no person contributed more than 20 percent of the total amounts paid.  
For purposes of subclause (i), all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers.  
(e) Conforming Amendment.—Subparagraph (D) of section 28(b)(1) is amended by striking “June 30, 1995” and inserting “December 31, 1996.”  
(f) Effective Date.—(1) In General.—Except as provided in paragraph (2), the amendments made by this section shall apply to tax years ending after June 30, 1995.  
(2) Subsections (c) and (d).—The amendments made by subsections (c) and (d) shall apply to tax years beginning after June 30, 1995.

SEC. 11114. ORPHAN DRUG TAX CREDIT.  
(a) Recategorized as a Business Credit.—  
(B) of section 35 (relating to general business credit) is amended by striking “plus” at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting “; plus”, and by adding at the end of the following new paragraph:  
“(12) the orphan drug credit determined under section 45C(a).”  
(b) Conforming Amendment.—Subsection (b) of section 35 (relating to general business credit) is amended by striking “plus” at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting “; plus”, and by adding at the end of the following new paragraph:  
“(12) the orphan drug credit determined under section 45C(a).”

SEC. 11115. CONTRIBUTIONS OF STOCK TO PRIVATE VENTURE FOUNDATIONS.  
(a) in General.—Subparagraph (D) of section 170(e)(5) (relating to special rule for contributions of stock for which market quotations are readily available) is amended by striking “December 31, 1994” and inserting “December 31, 1996.”  
(b) Effective Date.—The amendment made by this section shall apply to contributions made after December 31, 1994.

SEC. 11116. DELAY OF TAX ON FUEL USED IN COMMERCIAL AVIATION.  
(a) in General.—Sections 4092(b)(2), 4621(f)(2)(B), and 4627(h)(4)(B) are each amended by striking “September 30, 1995” and inserting “September 30, 1997.”  
(b) Conforming Amendment.—Section 13245 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.  
(c) Effective Date.—(1) In General.—The amendments made by this section shall take effect after September 30, 1995, but shall not take effect if section 11117 does not take effect.  
(2) Cross Reference.—For refund of tax paid on commercial aviation fuel before the date of the enactment of this Act, see section 6427(f) of the Internal Revenue Code of 1986.

SEC. 11117. DELAY OF TAX ON FUEL USED IN COMMERCIAL AVIATION.  
(a) in General.—Sections 4092(b)(2), 4621(f)(2)(B), and 4627(h)(4)(B) are each amended by striking “September 30, 1995” and inserting “September 30, 1997.”  
(b) Conforming Amendment.—Section 13245 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.  
(c) Effective Date.—(1) In General.—The amendments made by this section shall take effect after September 30, 1995, but shall not take effect if section 11117 does not take effect.  
(2) Cross Reference.—For refund of tax paid on commercial aviation fuel before the date of the enactment of this Act, see section 6427(f) of the Internal Revenue Code of 1986.

SEC. 11118. DELAY OF TAX ON FUEL USED IN COMMERCIAL AVIATION.  
(a) in General.—Sections 4092(b)(2), 4621(f)(2)(B), and 4627(h)(4)(B) are each amended by striking “September 30, 1995” and inserting “September 30, 1997.”  
(b) Conforming Amendment.—Section 13245 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.  
(c) Effective Date.—(1) In General.—The amendments made by this section shall take effect after September 30, 1995, but shall not take effect if section 11117 does not take effect.  
(2) Cross Reference.—For refund of tax paid on commercial aviation fuel before the date of the enactment of this Act, see section 6427(f) of the Internal Revenue Code of 1986.

(d) FLOOR STOCKS TAX.—(1) IMPOSITION OF TAX.—In the case of commercial aviation fuel which is held by any person on October 1, 1997, there is hereby imposed a floor stocks tax equal to 4.3 cents per gallon.  
(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—(A) LIABILITY FOR TAX.—A person holding aviation fuel on October 1, 1997, to which the tax imposed by paragraph (1) applies shall be liable for such tax.  
(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner and at such time as the Secretary shall prescribe.  
(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before April 30, 1998.  
(d) Definitions.—For purposes of this subsection—  
(A) HELD BY A PERSON.—Aviation fuel shall be considered as “held by a person” if title thereto has passed to such person (whether or not delivery to the person has been made).  
(B) COMMERCIAL AVIATION FUEL.—The term “commercial aviation fuel” means aviation fuel (as defined in section 4093 of such Code) which is held on October 1, 1997, for sale or use in commercial aviation (as defined in section 4092(b) of such Code).  
(C) SECRETARY.—The term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.  
(d) Exception for Exempt Uses.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code (other than the rate imposed by section 4091(b)(2) of such Code) is allowable for aviation fuel so used.  
(e) Exception for Certain Amounts of Fuel.—(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on October 1, 1997, by any person if the aggregate amount of commercial aviation fuel held by such person on such date does not exceed 2,000 gallons.  
The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.  
(B) EXAMPLE.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from tax imposed by paragraph (1) by reason of paragraph (4).  
(C) Controlled Groups.—For purposes of this paragraph—  
(I) CORPORATIONS.—(i) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.
(ii) Controlled group.—The term “controlled group” has the meaning given to such term by subsection (a) of section 1563 of such Code, except that for such purposes the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in such subsection.

(iii) Nonincorporated persons under common control.—Any persons under common control described in clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) Other laws applicable.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code are applicable as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

SEC. 11177. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.

(a) Fuel Tax.—

(1) Subparagraph (A) of section 4091(b)(3) is amended by striking “January 1, 1996” and inserting “October 1, 2000.”

(2) Paragraph (2) of section 4081(d), as amended by section 11651 of this Act, is amended by striking “January 1, 1996” and inserting “October 1, 1996.”

(b) Ticket Taxes.—Sections 4261(g) and 4271(d) are each amended by striking “January 1, 1996” and inserting “October 1, 1996.”

(c) Transfer to Airport and Airway Trust Fund.—

(1) Subsection (b) of section 9502 is amended by striking “January 1, 1996” each place it appears and inserting “October 1, 1996.”

(2) Paragraph (3) of section 9502(f) is amended by striking “December 31, 1995” and inserting “September 30, 1999.”

SEC. 11183. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1967 is amended by striking “October 1, 2000” and by inserting “October 1, 2002.”

CHAPTER 2—SUNSET OF LOW-INCOME HOUSING CREDIT

SEC. 11211. SUNSET OF LOW-INCOME HOUSING CREDIT.

(a) Repeal of Reallocation of Unused Credits Among States.—Subparagraph (D) of section 42(h)(3) is amended by adding at the end the following new clause:

“(ii) TERMINATION.—

“(I) IN GENERAL.—Except as provided in paragraph (2)—

“(A) clause (i) of subsection (h)(3)(C) shall not apply to any amount allocated after December 31, 1997, and

“(B) subsection (h)(4) shall not apply to any building placed in service after such date.

“(2) EXCEPTION FOR BOND-FINANCED BUILDINGS IN PROGRESS.—For purposes of paragraph (1)(B), a building shall be treated as placed in service before January 1, 1998, if—

“(A) the bonds with respect to such building are issued before such date,

“(B) the taxpayer’s basis in the project (of which the building is a part) as of December 31, 1997, is more than 10 percent of the taxpayer’s reasonably expected basis in such project as of December 31, 1997, and

“(C) such building is placed in service before January 1, 2000.”

CHAPTER 3—EXTENSIONS OF SUPERFUND REVENUE SERVICE USER FEES

SEC. 11311. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) Extension of Taxes.—
days after notice and demand) is amended to read as follows:

“(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand are given for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000) after such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 11206. INCREASED LIMIT ON ATTORNEY FEES.

SEC. 11207. DEFERRED REVENUE RECOUPMENT.

SEC. 11208. INCREASE IN LIMIT ON RECOVERY OF CIVIL LIENS IN UNAUTHORIZED COLLECTION ACTIONS.

SEC. 11209. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS.

SEC. 11210. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11211. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11212. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11213. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11214. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11215. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11216. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11217. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11218. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11219. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11220. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11221. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11222. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11223. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11224. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11225. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11226. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11227. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11228. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11229. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11230. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11231. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11232. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11233. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11234. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11235. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11236. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11237. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11238. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11239. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11240. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11241. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11242. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11243. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11244. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11245. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11246. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11247. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11248. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11249. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11250. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

SEC. 11251. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER IN VOLUNTARY CONVERSION RULES.

SEC. 11252. EXPANSION OF REQUIREMENT THAT IN VOLUNTARY CONVERSION, PRO PERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1995.
"(ii) Replacement Property Must Be Acquired From Unrelated Person in Certain Cases.—

(1) In General.—If the property which is involuntary converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceeding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2).

(2) Taxpayers to Which Subsection Applies.—This subsection shall apply to—

(A) a C corporation,

(B) a partnership in which 1 or more C corporations own, directly or indirectly (in accordance with section 707(b)), more than 50 percent of the capital, profits, or interests in, such partnership at the time of the involuntary conversion, and

(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000.

In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

(3) Related Person.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person which is similar to those of officers, directors, or trustees similar to those of officers, directors, or trustees of the organization.

(b) Effective Date.—The amendment made by this section shall apply to disasters declared after December 31, 1994, in taxable years ending after such date.

Subtitle H—Exempt Organizations and Community Reforms

CHAPTER I—EXCISE TAX ON AMOUNTS OF PRIVATE EXCESS BENEFITS

SEC. 12271. EXCISE TAXES FOR FAILURE BY CERTAIN CHARITABLE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.

(a) In General.—Chapter 42 (relating to private foundations) of subchapter C of chapter 1 of subchapter D of subchapter A of chapter 44 of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of the Taxpayer Relief Act of 1997) is amended—

(1) by striking "residence" in paragraph (3) (as redesignated by subsection (a)) and inserting "property,"

(2) by striking "Principal Residencies" in the heading and inserting "Property," and

(3) by striking "(i) IN GENERAL.—" and inserting "(i) Principal Residencies.—"

(b) Effective Date.—The amendments made by this section shall apply to transactions after December 31, 1994, in taxable years ending after such date.

Subtitle I—Joint and Several Liability

SEC. 11271. EXCISE TAXES FOR FAILURE BY CERTAIN CHARITABLE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.

(a) In General.—Chapter 42 (relating to private foundations) of subchapter C of chapter 1 of subchapter D of subchapter A of chapter 44 of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of the Taxpayer Relief Act of 1997) is amended—

(1) by striking "residence" in paragraph (3) (as redesignated by subsection (a)) and inserting "property,"

(2) by striking "Principal Residencies" in the heading and inserting "Property," and

(3) by striking "(i) IN GENERAL.—" and inserting "(i) Principal Residencies.—"

(c) Effective Date.—The amendments made by this section shall apply to transactions after December 31, 1994, in taxable years ending after such date.

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"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

(B) the date on which the tax imposed by subsection (a)(1) is assessed by the Secretary of the Treasury or his delegate.

(6) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any excess benefit tranfer or return of net margins or capital to any member of an organization in accordance with its bylaws and statute, with respect to the excess benefit to the extent possible, and where fully undoing the excess benefit is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4) —

(1) The Secretary of the Treasury is authorized to make regulations providing for the exclusion from gross income of certain payments made by an organization described in section 501(c)(4)(A) in connection with the transfer or return of net margins or capital to any member of such organization, if—

(A) no part of the member's interest in the amount received by such member during the taxable year is used for any purpose other than that which holds more than $20,000 of the excess benefit expected to be obtained by the organization from the transaction,

(B) the amount received by such member in excess of such part is not used for any purpose other than that which holds more than $20,000 of the excess benefit expected to be obtained by the organization from the transaction,

(C) the amount of the excess benefit expected to be obtained by the organization from the transaction is not more than $20,000, and

(D) the organization did not receive any other amount from the member during the taxable year.

(2) In the case of an organization described in section 501(c)(4)(A) which has received any such excess benefit during the taxable year, the organization shall take into account its allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization for which such excess benefit was received, and shall reduce such amount by the fair market value of any property other than that received in respect of the excess benefit.

(3) The provisions of this subsection shall be applied by substituting "$100" for "$20,000" in the definition of "excess benefit" for purposes of section 501(c)(4)(A).
lines) of such person’s trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgment does not include advertising such property or services (including messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).

"(III) LIMITATIONS.—

"(I) CONTINGENT PAYMENTS.—The term ‘qualified sponsorship payment’ does not include any payment if the amount of such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.

"(II) ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term ‘qualified sponsorship payment’ does not include any payment which entitles the payor to an acknowledgement or advertising in regularly scheduled and printed material published by or on behalf of the payee organization that is not related to and primarily distributed in connection with a specific event conducted by the payee organization.

"(3) ALLOCATION OF PORTIONS OF SINGLE PAYMENT.—In this subsection, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of such payment shall be treated as a separate payment.

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments solicited or received after December 31, 1995.

SEC. 11278. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS

(a) GENERAL RULE.—Section 512 (defining unrelated business taxable income) is amended by adding at the end the following new subsection:

"(d) TREATMENT OF DUES TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.—

"(1) IN GENERAL.—If—

"(A) an agricultural or horticultural organization described in section 501(c)(9) requires annual dues to be paid in order to be a member of such organization, and

"(B) the amount of such required annual dues does not exceed $100, in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

"(2) INDEXATION OF $100 AMOUNT.—In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to:

"(A) $1.00, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f) for the calendar year in which the taxable year begins, by substituting ‘calendar year 1994’ for ‘calendar year 1992’ in subparagraph (B) thereof.

"(3) DUES.—For purposes of this subsection, the term ‘annual dues’ means any payment required to be made in order to be recognized by the organization as a member of the organization.

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 11279. REPEAL OF CREDIT FOR CONTRIBUTIONS TO COMMUNITY DEVELOPMENT CORPORATIONS

(a) IN GENERAL.—Section 13311 of the Revenue Reconciliation Act of 1993 (relating to credit for contributions to certain community development corporations) is repealed.

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act (other than contributions made pursuant to a legally enforceable agreement which is effective on the date of the enactment of this Act).

"(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

"(A) the potential participant to whom the offer is made or for any other person (other than the potential participant or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person with respect to such tax shelter or any significant tax features of the tax shelter, or

"(B) any promoter of the tax shelter—

"(i) claims, knows, or has reason to know

"(ii) knows or has reason to know that any other person (other than the potential participant or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person with respect to such tax shelter or any significant tax features of the tax shelter, or

"(iii) causes another person to claim, that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure or use by others.

For purposes of this subsection, the term ‘promoter’ means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

"(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

"(ii) no tax shelter promoter is a United States person,

"(B) EXCLUSION.—Subparagraph (A) shall not apply to a United States person who discussed participation in such shelter shall register such shelter under subsection (a).

"(C) EFFECTIVE DATE.—Subparagraph (A) shall apply to a United States person who discussed participation in a tax shelter if—

"(i) such person notified the promoter in writing (at least 30 days after the day on which such discussions began) that such person would not participate in such shelter,

"(ii) such person does not participate in such shelter.

"(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.

"(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to file information returns regarding tax shelters) is amended by adding at the end the following new paragraph:

"(C) CONFIDENTIAL ARRANGEMENTS.—

"(1) IN GENERAL.—A tax shelter (as defined in section 6111(d)) is subject to the penalty imposed under paragraph (1) only when the person required to register such tax shelter by reason of section 6111(d)(3) is a United States person who participated in the tax shelter or any significant tax features of the tax shelter.

"(2) EFFECTIVE DATE.—The amendment made by this section shall take effect as if it had been included in the Revenue Reconciliation Act of 1993.
and employees of the taxpayer or 10 individuals.

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking “paragraph (2)” and inserting “paragraph (2) or (3), as the case may be.”

(d) Effective Date.—The amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) entered into or effective on or after the date of the enactment of this section.

SEC. 13200. TERMINATION OF SUSPENSE ACCOUNTS OF FAMILY CORPORATIONS.

(a) In General.—Subsection (a) of section 264 of the Internal Revenue Code of 1986 is amended by striking paragraph (2) and inserting the following as a new paragraph:

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"(i) Termination.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall not apply to any taxable year beginning after December 31, 1995.

"(2) Transition Rules for Active Business Income Credit.—Except as provided in paragraph (3).

"(A) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) does not apply, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning on or after December 31, 1995, and before January 1, 2001.

"(B) Special Rule for Reduced Credit.—

"(i) In the case of an existing credit claimant to which subsection (a)(4)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning before 1997 may not be revoked unless it is revoked for the taxpayer's first taxable year beginning in 1997 and all subsequent taxable years.

"(3) Additional Restricted Credit.—

"(A) IN GENERAL.—In the case of an existing credit claimant—

"(I) the term 'adjustable base period income' means the amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4) shall be such income as reduced under this paragraph.

"(B) Adjusted Base Period Income.—For purposes of paragraph (3)—

"(i) IN GENERAL.—The term 'adjusted base period income' means the average of the inflation-adjusted possession income of the corporation for each base period year.

"(ii) Inflation-Adjusted Possession Income.—For purposes of subparagraph (A), the inflation-adjusted possession income of any corporation for any base period year shall be an amount equal to the sum of—

"(I) the inflation-adjusted possession income of such corporation for such base period year, plus

"(II) such possession income multiplied by the inflation adjustment percentage for such base period year.

"(C) Inflation Adjustment Percentage.—

"(i) For purposes of subparagraph (B), the inflation adjustment percentage for any base period year means the percentage (if any) by which the CPI for the calendar year in which—

"(I) such corporation is a possession corporation; or

"(II) the corporation had the smallest inflation-adjusted possession income, and

"(iii) the CPI for the calendar year in which the percentage determined under subparagraph (B) is applied and ending with the last taxable year beginning before January 1, 2001, exceeds

"(B) the adjusted basis of the property shall be treated as an existing credit claimant as of the close of the taxable year ending before the date of such election.

"(C) Election to Use One Base Period Year.—

"(i) IN GENERAL.—At the election of the taxpayer, the term 'base period year' means—

"(II) the period beginning on the 10th taxable year, and

"(III) the term 'deemed taxable year which includes the first months of calendar year 1995.'

"(ii) Base Period Income for 1995.—In determining the adjusted base period income of the corporation for the deemed taxable year under clause (i)(II), the possession income shall be annualized and shall be determined without regard to any extraordinary item.

"(iii) Election.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1995, for which it is a possession corporation. The rules of subclauses (i) and (ii) of subsection (a)(4)(B) shall apply to the election under this subparagraph.

"(D) Acquisitions and Dispositions.—Rules similar to those of paragraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this subsection.

"(E) Possession Income.—For purposes of this subsection and subsections (a)(4)(B) and (C), the term 'possessions income' means the income referred to in subsection (a)(1)(A), except that there shall not be taken into account any such income from an applicable possession of Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

"(F) Qualified Stock.—For purposes of this subsection, the term 'existing credit claimant' means a corporation—

"(i) which was actively conducting a trade or business in a possession on October 13, 1995, and

"(ii) with respect to which an election under this section is in effect for the corporation's taxable year which includes October 13, 1995.

"(G) New Lines of Business.—If, after October 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant adds a substantial new line of business, such corporation shall be treated for purposes of this section as an existing credit claimant as of the close of the taxable year ending before the date of such election.

"(H) Binding Contract Exception.—If, on October 13, 1995, and at all times thereafter, there is in effect with respect to a corporation a binding contract for the acquisition of assets to be used in, or for the sale of assets to be produced from, a trade or business, the corporation shall be treated for purposes of this paragraph as actively conducting such trade or business on October 13, 1995. The preceding sentence shall not apply if such trade or business is not actively conducted before January 1, 1996.

"(I) Special Rule for Applicable Possessions.—In determining under paragraph (8) whether a taxpayer is an existing credit claimant with respect to an applicable possession, this paragraph shall be applied separately with respect to such possession.

"(J) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

"(K) Sec. 13506. Depreciation Under Income Forecast Method.—

"(a) General Rule.—Section 167 (relating to depreciation) is amended by adding subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(b) Depreciation Under Income Forecast Method.—

"(i) IN GENERAL.—If the depreciation deduction allowable under this section for any taxpayer with respect to any property is determined under the income forecast method or any similar method—

"(ii) the adjusted basis of the property shall only include amounts with respect to which the requirements of section (a) of this section are satisfied.

"(iii) Certain Possessions Income.—In determining the amount of the depreciation deduction under such method, the estimated income from the property shall include all income earned before the close of the 10th taxable year following the taxable year in which the property was placed in service in connection with the ultimate use of the property by, or the ultimate sale of merchandise to, persons who are not related persons (within the meaning of section 267(b)) to the taxpayer.

"(b) The adjusted basis of the property shall only include amounts with respect to which the requirements of section (a) of this section are satisfied.

"(c) The depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be based on the adjusted basis of such property as of the beginning of such 10th taxable year, and
any property to have the preceding sentence not the time such cost is incurred) such cost to its term rate determined under section 1274(d) as of count by discounting (using the Federal mid-
section (A), and (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a separate property under paragraph (2), shall be taken into ac-
to any property which, when placed in service, the taxpayer, had a basis of $100,000 or less.

For purposes of this subsection, except as provided in regula-
tions, the term `recomputation year' means, with respect to any property placed in service after September 13, 1995, the year in which the property was placed in service, unless the actual income from the property for the 10th taxable year after the date on which the property was placed in service.

Paragraph (2) does not apply to any property which, when placed in service, the taxpayer, had a basis of $100,000 or less.

For purposes of this subsection, except as provided in regula-
tions, the term `recomputation year' means, with respect to any property placed in service after September 13, 1995, the year in which the property was placed in service, unless the actual income from the property for the 10th taxable year after the date on which the property was placed in service.

F.I.C. 412(c)(7)(A)(i)(II), or

For purposes of this subsection, except as provided in regula-
tions, the term `recomputation year' means, with respect to any property placed in service after September 13, 1995, the year in which the property was placed in service, unless the actual income from the property for the 10th taxable year after the date on which the property was placed in service.

Paragraph (2) does not apply to any property which, when placed in service, the taxpayer, had a basis of $100,000 or less.

For purposes of this subsection, except as provided in regula-
tions, the term `recomputation year' means, with respect to any property placed in service after September 13, 1995, the year in which the property was placed in service, unless the actual income from the property for the 10th taxable year after the date on which the property was placed in service.
(A) by inserting “or a qualified employee benefit transfer,” after “to a health benefits account,” in paragraphs (1) and (2)(A),
(b) by inserting “or qualified employee benefit transfers,” in the definition of “health benefits liabilities” in paragraph (1),
(C) in paragraph (3)—
(i) by striking “January 1, 1995” and inserting “the date of the enactment of the Revenue Reconciliation Act of 1995,” and
(ii) by striking “paragraph (1)” and inserting “this section,”
(D) by striking “to health benefits accounts” in the heading.
2. EXCLUSIVE BENEFIT.—Paragraph (1) of section 403(c) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking “January 1, 1995” and inserting “the date of the enactment of the Revenue Reconciliation Act of 1995.”
3. EXCLUSION OF PROHIBITED TRANSFER.—Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—
(a) by striking “retiree health account” and inserting “health benefits account,”
(b) by inserting before the period at the end “, or any transfer of such assets in a taxable year beginning before January 1, 2002, in a qualified health benefit transfer permitted under such section 420,” and
(C) by striking “January 1, 1995” and inserting “the date of the enactment of the Revenue Reconciliation Act of 1995.”
4. EFFECTIVE DATES.—
(A) in general.—The amendments made by this section shall apply to transfers occurring after December 31, 1995.
(B) qualified transfers.—To the extent the amendments made by subsections (b), (c), and (d) apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 (as in effect on the date before the date of the enactment of this Act), such amendments shall apply to transfers occurring after December 31, 1995.

SEC. 11306. EXCLUSION OF INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.
(a) in general.—Section 133 (relating to interest on certain loans used to acquire employer securities) is hereby repealed.
(b) conforming amendments.—
(1) paragraph (1) of section 291(e)(1) is amended by striking clause (iv) and by redesignating clause (v) as clause (iv).
(2) section 812 is amended by striking subsection (a).
(3) paragraph (5) of section 852(b) is amended by striking subparagraph (C).
(4) paragraph (2) of section 4978(b) is amended by adding at the end the following new paragraph:
“(B) a person engaged in a trade or business (including legal services (whether or not such services were performed for the payer).”
(5) section 4978(b) (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.
(6) the table of sections for chapter 43 is amended by striking the item relating to section 4978.

Subsection (e) of section 4047 is amended by striking paragraphs (1), (2), and (3) and inserting the following paragraphs:
“(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock,” or
“(2) both such employer or plan administrator,
(7) subsection (f) of section 7872 is amended by striking paragraph (12).

(c) EFFECTIVE DATE.—
(1) in general.—The amendments made by this section shall apply to loans made after October 13, 1995.
(2) refinancing.—The amendments made by this section shall not apply to loans made after October 13, 1995, to refinance securities acquisition loans (determined without regard to section 1250(b)(3) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) made on or before such date or to refinancing loans described in paragraph (1).
(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect).
(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and
(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.
For purposes of this paragraph, the term “securities acquisition loan” includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).

CHAPTER 2—LEGAL REFORMS

SEC. 11311. REPEAL OF EXCLUSION FOR PURITANICALITY TO PHYSICAL INJURIES OR SICKNESS.
(a) in general.—Paragraph (2) of section 104(a) (relating to injuries or sickness) is amended to read as follows:—
“(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;.”
(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence:—
“For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress.”
(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subparagraph (c) as subparagraph (d) and inserting after subparagraph (b) the following new subparagraph:
“(c) Restriction on Punitive Damages Not to Apply in Certain Cases.—The restriction on the application of subsection (a)(2) to punitive damages shall not apply to punitive damages which—
“(1) are awarded in a civil action—
“(A) which is a wrongful death action, and
“(B) with respect to which applicable State law (as in effect on February 1, 1996, and without regard to any modification after such date) provides that a court has the power to provide such damages if the court determines that such damages are appropriate;
“(2) would have been excludable from gross income under subsection (a)(2) as in effect for taxable years ending before December 31, 1995. This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is deemed to provide) the treatment described in paragraph (2).”
(d) EFFECTIVE DATE.—
(1) in general.—Except as provided in paragraph (2) of this section, the amendments made by this section shall apply to amounts received after December 31, 1995, in taxable years ending after such date.
(2) exception.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or as of the date before) September 30, 1995.

SEC. 11312. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.
(a) in general.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:
“(f) Return Required in the Case of Payments to Attorneys.—
“(1) in general.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.
“(2) Application of Subsection.—
“(A) in general.—This subsection applies to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).
“(B) exception.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein).
(b) Reporting of Attorneys’ Fees Payable to Corporations.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys’ fees.
(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1996.

CHAPTER 3—REFORMS RELATING TO NONRECOGNITION PROVISIONS

SEC. 11321. NO ROLLOVER OR EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE WHICH IS ATTRIBUTABLE TO DEPRECIATION DEDUCTIONS.
(a) in general.—Subsection (a) of section 1250(b)(3) (relating to limitations) is amended by adding at the end the following new paragraph:
“(3) Recognition of Gain Attributable to Depreciation Deductions.—Subsection (a) shall not apply to so much of the gain from the sale of any residence as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such residence.”
(b) Comparable Treatment Under 1-Time Exclusion of Gain on Sale of Principal Residence.—Subsection (b) of section 121 is amended by adding at the end the following new paragraph:
“(3) Recognition of Gain Attributable to Depreciation Deductions.—
“(A) in general.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such property.”
(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 11322. NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE BY NONCITIZENS LIMITED TO NEW RESIDENCES LOCATED IN THE UNITED STATES.
(a) in general.—Subsection (d) of section 121 (relating to limitations) is amended by adding at the end the following new paragraph:
“(4) New Residence Must Be Located in the United States in Certain Cases.—
“(A) in general.—In the case of a sale of an old residence by a taxpayer—
"(i) who is not a citizen of the United States at the time of sale, and
"(ii) who is not a citizen or resident of the United States on the date which is 2 years after the date of the enactment of this paragraph, subsection (a) shall apply only if the new residence is located in the United States or a possession of the United States.

(1) PROOF HELD JOINTLY BY HUSBAND AND WIFE.—Subparagraph (A) shall not apply if—
"(i) the old residence is held by a husband and wife as joint tenants, tenants by the entirety, or community property,

(1) CONFORMING AMENDMENTS.—Subparagraph (A) shall not apply to new residences—
A. ELECTRIC ENERGY OR GAS.—
B. CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The amendment made by this section shall apply to sales of old residences after December 31, 1995.

(2) PARTIAL REPEAL OF PURCHASES OF NEW RESIDENCES.—The amendment made by this section shall not apply to new residences—
A. purchased before September 13, 1995, or
B. in the case of a sale pursuant to the Act of 1990, by agreement with the Act to a binding contract in effect on such date and at all times thereafter before such purchase.

(3) CERTAIN RULES TO APPLY.—For purposes of this paragraph—
A. paragraphs (1), (2), and (3) of section 1034(c) of the Internal Revenue Code of 1986 shall apply,
B. 1034 of the Internal Revenue Code of 1986 shall apply.

CHAPTER 4—EXCISE TAX AND TAX-EXEMPT BOND PROVISIONS

SECTION 11331. REPEAL OF DIESEL FUEL TAX REBATE FOR PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS

(a) In General.—Section 4627 (relating to fuels not used for taxable purposes) is amended by striking subsection (g).

(b) Conforming Amendments.—

(1) ELECTIVE DATE.—The amendment made by this section shall apply to sales of new residences after December 31, 1995.

(2) PARTIAL REPEAL OF PURCHASES OF NEW RESIDENCES.—The amendment made by this section shall not apply to new residences—
A. purchased before September 13, 1995, or
B. in the case of a sale pursuant to the Act of 1990, by agreement with the Act to a binding contract in effect on such date and at all times thereafter before such purchase.

(3) CERTAIN RULES TO APPLY.—For purposes of this paragraph—
A. paragraphs (1), (2), and (3) of section 1034(c) of the Internal Revenue Code of 1986 shall apply,
B. 1033 of the Internal Revenue Code of 1986 shall apply.

SECTION 11332. MODIFICATIONS TO EXCISE TAX ON LOCAL FURNISHINGS OF ELECTRICITY AND GAS

(a) In General.—Section 4627 (relating to fuels not used for taxable purposes) is amended by inserting "", or on any recycled halon imported from any country which is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer before the period at the end.

(b) Certification System.—The Secretary of the Treasury shall establish a certification system to ensure compliance with the recycling requirements for imported halon under section 4627(d)(1) of the Internal Revenue Code of 1986, as amended by subsection (a).

(c) Effective Date.—The amendment made by this section shall apply to sales of new residences after December 31, 1995.

SECTION 11333. ELECTION TO AVOID TAX-EXEMPT BOND PENALTIES FOR LOCAL FURNISHINGS OF ELECTRICITY AND GAS

Section 142(f) (relating to local furnishing of electric energy or gas) is amended by adding at the end the following new paragraphs:

(3) ELECTION TO AVOID PENALTIES FOR CERTAIN FURNISHERS.—
"(A) IN GENERAL.—If—

"(i) a person engaged in the local furnishing of electric energy or gas, directly or indirectly financed facilities for such furnishing in whole or in part with exempt facility bonds, and

"(ii) such person is engaged on such date in the local furnishing of electric energy or gas unless

"(B) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The term "reportable event" means—
A. the creation of any foreign trust by a United States person,
B. the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death,
C. the death of a citizen or resident of the United States if—
A. the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or
B. any portion of a foreign trust was included in the gross estate of the decedent.

(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—
A. the amount of money or other property (if any) transferred to the trust in connection with the reportable event,
B. the identity of the trust and of each transferor and beneficiary (or class of beneficiaries) of the trust.

(3) REPORTABLE EVENT.—For purposes of this subsection—
A. IN GENERAL.—The term "reportable event" means—
A. the creation of any foreign trust by a United States person,
B. the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death,
C. the death of a citizen or resident of the United States if—
A. the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or
B. any portion of a foreign trust was included in the gross estate of the decedent.

(4) RESPONSIBLE PARTY.—For purposes of this paragraph, the term "responsible party" means—
A. the grantor in the case of the creation of an inter vivos trust,
B. the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death,
C. the executor of the decedent's estate in any other case.

(5) UNITED STATES GRANTOR OF FOREIGN TRUST.—
A. IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—
A. such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and
B. such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

(6) TRUSTS NOT HAVING UNITED STATES AGENT.—
A. IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

(7) UNITED STATES AGENT REQUIRED.—
A. IN GENERAL.—If the rules of this paragraph apply to any foreign trust, such trust shall appoint an agent for purposes of this title who shall be responsible to ensure that—
A. such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and
B. such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

(8) END OF TRANSFERS.—
A. IN GENERAL.—If the rules of this paragraph apply to any foreign trust, such trust shall appoint an agent for purposes of this title who shall be responsible to ensure that—
A. such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and
B. such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.
such conditions, and at such time as the Secretary shall prescribe, to authorize a United States person to act as such trust’s limited agent for purposes of applying sections 7602, 7603, and 7604.

(ii) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

(iii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons to process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

(c) Other Rules to Apply.—Rules similar to those of this section and section 6038A(e) shall apply for purposes of this paragraph.

(c) Reporting by United States Beneficiaries of Foreign Trusts.—

(1) In General.—If any United States person receives (directly or indirectly) any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such taxable year which includes—

(A) the name of such trust,

(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

(C) such other information as the Secretary may prescribe.

(2) Inclusion in Income If Records Not Provided.—

(A) In General.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter I. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

(B) Application of Accumulation Distribution Rules.—For purposes of applying sections 6711 and 7604, any distribution (which subparagraph (A) applies, the applicable number of years for purposes of section 666A(a) shall be 1/2 of the number of years the trust has been in existence.

(d) Special Rules.—

(1) Determination of Whether United States Person Receives Distribution.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under section 6711(a)(2) and (4) of section 6038A shall be disregarded.

(2) Domestic Trusts with Foreign Activities.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

(3) Time and Manner of Filing Information.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

(4) Modification of Return Requirements.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the requirement has no significant tax interest in obtaining the required information.

(b) Increased Penalties.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

(1) Civil Penalty.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

(A) is not filed on or before the time provided in such section, then—

(i) the applicable number of years for purposes of section 668(a) shall be $\frac{1}{2}$ of the number of years of the taxable year of the United States person and the United States shall have a significant tax interest in obtaining the information required to be filed;

(ii) the penalty shall be imposed by this section on any failure which is with respect to any failure exceed the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subparagraph with respect to any failure exceed the gross reportable amount.

(B) Special Rules for Returns under Section 6048(b).—In the case of a return required under section 6048(b)—

(i) the United States person referred to in such section and such person at the time of the failure imposed by subsection (A) and

(ii) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

(C) Gross Reportable Amount.—For purposes of subsection (a), the term "gross reportable amount" means—

(1) the gross value of the property involved in the tax event in the case of a failure relating to section 6048(a),

(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in a failure relating to section 6048(b)(1),

(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

(d) Reasonable Cause Exception.—No penalty shall be imposed by this section on any failure which is due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for providing the required information is not reasonable cause.

(e) Deficiency Procedures Not to Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(f) Conforming Amendments.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11045, is amended by striking "or" at the end of subparagraph (U) and by striking subparagraph (V) and inserting "or," and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 6048(b)(1)(B) (relating to foreign trusts)."

(2) The table of sections for part I of subchapter B of chapter 63 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts.

(3) The table of sections for part I of subchapter B of chapter 67 is amended by striking the item relating to section 6607 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts."
income for periods before such individual’s residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual’s residency starting date is the date on which the individual ceases to be a United States person and begins to be a nonresident alien or a resident alien of such other country as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(D) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

SEC. 11344. INFORMA TION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part II of subchapter A of chapter 39 of subpart E of chapter 1 of subtitle B of the Internal Revenue Code of 1986 shall not apply to any failure to return a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 11345. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF DEFINITION OF ASSOCIATE TRUST.—Subsection (a) of section 666(a) (as amended by section 11343 of this title) is amended— (1) by striking the phrase "or any other person" and inserting in lieu thereof "or any person other than a United States person", and (2) by inserting after the phrase "domestic corporation" the text: "or domestic corporation that is foreign with respect to any foreign gift with which the United States person has a substantial interest due to the receipt of the foreign gift or the avoidance of the purposes of this subsection.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

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"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 6671(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments described in paragraph (2)."

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined in paragraph (2) minus the number of undistributed income years, by—

"(i) the undistributed income net for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution)."

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is—

"(i) the product of—

"(I) the average net income tax (as determined pursuant to section 871) imposed on—

"(II) the aggregate undistributed net income.

"(B) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.

"(C) TECHNICAL AMENDMENT.—Paragraph (1) of section 7871(f) is amended by inserting "6431(a),'" before "or 1274'' each place it appears.

"(D) EFFECTIVE DATE.—

"(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

"(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

"(3) LOANS IN FOREIGN CURRENCY.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 11346. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

"(1) IN GENERAL.—Section 877 is amended by inserting after subparagraph (D) and by inserting after subparagraph (D) the following:

"(D) ANY ESTATE OR TRUST—

"(i) a court of a foreign country which is described in section 6431(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent avoidance of such purposes.

"(8) EXCEPTIONS.—For purposes of this section, the term 'foreign estate or foreign trust' does not include—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person who is not described in section 671(b) and who is related to such grantor or beneficiary.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(b) shall apply as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOTMENT.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.

"(4) TECHNICAL AMENDMENT.—Paragraph (1) of section 7871(f) is amended by inserting "6431(a),'" before "or 1274'' each place it appears.

"(5) EFFECTIVE DATE.—

"(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

"(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

"(3) LOANS IN FOREIGN CURRENCY.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

"(a) IN GENERAL.—Subsection (a) of section 671 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) IN GENERAL.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 671.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

"(A) the average annual net income tax (as defined in section 338(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $100,000, or

"(B) the amount required to be included under paragraph (1) of section 6431(a) with respect to any transfer described in section 1491 and 1471 after subtracting $5,000 from the amount described in paragraph (1) of section 6431(a).

"(3) DETERMINATION OF UNDISTRIBUTED NET INCOME.—The term 'undistributed net income' means any prior taxable year of the estate or trust, and

"(4) DETERMINATION OF PAYMENTS OF TAX.—The term 'qualified foreign property' means—

"(A) the applicable number of years before the date of the enactment of this Act.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is—

"(i) the sum of the products described in subparagraph (A) and

"(ii) the aggregate undistributed net income.

"(C) TECHNICAL AMENDMENT.—Paragraph (1) of section 7871(f) is amended by inserting "6431(a),'" before "or 1274'' each place it appears.

"(D) EFFECTIVE DATE.—

"(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

"(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

"(3) LOANS IN FOREIGN CURRENCY.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

"(a) IN GENERAL.—Chapter 6—TREATMENT OF INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP—SEC. 11348. REVISING OR ALTERING TAXATION OF GIFTS TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.

"(a) TREATMENT OF EXPATRIATES.—

"(1) IN GENERAL.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 671.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

"(A) the average annual net income tax (as defined in section 338(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $100,000, or

"(B) the amount required to be included under paragraph (1) of section 6431(a) with respect to any transfer described in section 1491 and 1471 after subtracting $5,000 from the amount described in paragraph (1) of section 6431(a).

"(3) DETERMINATION OF UNDISTRIBUTED NET INCOME.—The term 'undistributed net income' means any prior taxable year of the estate or trust, and

"(4) DETERMINATION OF PAYMENTS OF TAX.—The term 'qualified foreign property' means—

"(A) the applicable number of years before the date of the enactment of this Act.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is—

"(i) the sum of the products described in subparagraph (A) and

"(ii) the aggregate undistributed net income.

"(C) TECHNICAL AMENDMENT.—Paragraph (1) of section 7871(f) is amended by inserting "6431(a),'" before "or 1274'' each place it appears.

"(D) EFFECTIVE DATE.—

"(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

"(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

"(3) LOANS IN FOREIGN CURRENCY.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.
"(B) Long-term Foreign Residents.—An individual is described in this subparagraph if, for each year in the 10-year period ending on the date of loss of United States citizenship, the individual was present in the United States for 30 days or less. The rule of section 7701(b)(3)(D)(i) shall apply for purposes of this subparagraph.

(C) Renunciation Upon Reaching Age of Majority.—If an individual is described in this subparagraph if the individual's loss of United States citizenship occurs before such individual attains age 18.

(D) Individuals Specified in Regulations.—An individual is described in this subparagraph if the individual is described in a category of individuals prescribed by regulation by the Secretary.

(2) Technical Amendment.—Paragraph (1) of section 877(b) of such Code is amended by striking "subsection (c)" and inserting "subsection (d)."

(c) Treatment of Property Disposed of in Nonrecognition Transactions; Treatment of Distributions From Certain Controlled Foreign Corporations.—Subsection (d) of section 877, as redesignated by subsection (b), is amended to read as follows:

"(1) Sale of Property.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States,

"(A) Sale of Property.—Gains on the sale or exchange of property located in the United States,

"(B) Income or Gain Derived from Controlled Foreign Corporation.—Any income or gain derived from stock in a foreign corporation only—

"(i) if the individual losing United States citizenship owned (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), at any time during the 2-year period ending on the date of the loss of United States citizenship, more than 50 percent of—

"(i) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(ii) the total value of the stock of such corporation, and

"(ii) to the extent such income or gain does not exceed the excess profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

"(2) Gain Recognition on Certain Exchanges.—

"(A) In General.—In the case of any exchange of property to which this paragraph applies, notwithstanding any other provision of this title, such property shall be treated as sold for its fair market value on the date of such exchange, and shall be recognized for the taxable year which includes such date.

"(B) Exchanges to Which Paragraph Applies.—This paragraph shall apply to any exchange during the 10-year period described in subsection (a) if—

"(i) gain would not (but for this paragraph) be recognized on such exchange in whole or in part for purposes of this subtitle,

"(ii) income derived from such property was from sources within the United States (or, if no income was derived, would have been from such sources), and

"(iii) income derived from the property acquired in the exchange would be from sources outside the United States.

"(C) Exception.—Subparagraph (A) shall not apply if the individual enters into an agreement with the Secretary which specifies that any income or gain derived from the property acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during the 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, any gain that was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

"(D) Secretory May Extend Period.—To the extent provided in regulations prescribed by the Secretary, subparagraph (B) shall be applied by substituting the 10-year period beginning 5 years after the individual's loss of United States citizenship for the 10-year period referred to therein.

"(E) Secretary May Require Recognition of Gain in Certain Cases.—To the extent provided in regulations prescribed by the Secretary—

"(i) the removal of appreciated tangible personal property from the United States, and

"(ii) any other occurrence which (without recognition of gain) results in a change in the source of the income or gain from property from sources within the United States to sources outside the United States shall be treated as an交换 to which this paragraph applies.

"(F) Substantial Diminishing of Risks of Ownership.—In determining whether this section applies to any gain on the sale or exchange of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property (or similar property),

"(B) the holding by another person of a right to acquire the property, or

"(C) a subsequent exchange transaction.

"(G) Credit for Foreign Taxes Imposed on United States Source Income.—

"(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence:

"(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(ii) the total value of the stock of such corporation, and

"(ii) to the extent such income or gain does not exceed the excess profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

"(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting "after any reduction in such tax under the last sentence of such subsection" after "such subsection".

"(H) Comparable Estate and Gift Tax Treatment.—

"(1) Estate Tax.—

"(A) in General.—Subsection (a) of section 2107 is amended to read as follows:

"(B) Treatment of Expatriate.—

"(C) Exception for Certain Individuals.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

"(D) Credit for Foreign Gift Taxes.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph.

"(E) Comparable Treatment of Lawful Permanent Residents Who Cease To Be Taxed As Residents.—

"(F) Comparable Treatment of Lawful Permanent Residents Who Cease To Be Taxed As Residents.—

"(G) Credit for Foreign Death Taxes.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(H) Limitation on Credit.—The credit allowed by subparagraph (A) for such taxes paid to any foreign country shall not exceed the lesser of—

"(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of such property which is included in the gross estate solely by reason of subsection (b), or

"(ii) such property's proportionate share of the excess of—

"(i) the tax imposed by subsection (a), over

"(ii) the tax which would be imposed by section 2101 but for this section.

"(I) Proportionate Share.—For purposes of subparagraph (B), a property's proportionate share is the percentage which the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate.

"(J) Expansion of Inclusion in Gross Estate of Stock of Foreign Corporations.—Paragraph (2) of section 2107(b) is amended by striking "more than 50 percent of" and all that follows and inserting "more than 50 percent of—"

"(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(B) the total value of the stock of such corporation.

"(K) Gift Tax.—

"(A) Exception.—Paragraph (3) of section 2501(a) is amended to read as follows:

"(L) Credit for Foreign Taxes.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph.

"(M) Comparable Treatment of Lawful Permanent Residents Who Cease To Be Taxed As Residents.—

"(N) Comparable Treatment of Lawful Permanent Residents Who Cease To Be Taxed As Residents.—

"(O) Comparable Treatment of Lawful Permanent Residents Who Cease To Be Taxed As Residents.—

"(P) Comparable Treatment of Lawful Permanent Residents Who Cease To Be Taxed As Residents.—

"(Q) Commences to be Treated as a Resident of a Foreign Country under the provisions of H 13533tax.
treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

For purposes of this subsection, the term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the event described in paragraph (1) occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

(3) Special rules.

(A) Authority to exempt individuals.—Subsection (c) shall not apply to an individual who is treated as provided in paragraph (1).

(B) Step-up in basis.—For purposes of determining any tax imposed by reason of this subsection, including regulations under section 877(a), information detailing the fair market value of such property shall be treated as provided in paragraph (1) if such fair market value is less than the fair market value of such property on such date. If an individual elects not to have such property treated as provided in paragraph (1), the election shall be irrevocable.

(4) Authority to exempt individuals.—This subsection shall not apply to an individual who is designated by the Secretary of the Treasury that applying this section to such individuals is not necessary to carry out the purposes of this section.

(5) Regulations.—(A) In general. —The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations providing for the application of this subsection in cases where an alien individual becomes a resident of the United States during the 10-year period after being treated as provided in paragraph (1).

(6) Cross reference.—For comparative treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).

(B) Paragraph (3) of section 2501(a) (as amended by subsection (e)) is amended by adding at the end the following new subparagraph:

(1) a copy of any such statement, and

(2) the mailing address of such individual's principal foreign residence,

(3) the foreign country in which such individual is residing,

(4) the foreign country of which such individual is a citizen,

(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

(6) such other information as the Secretary may prescribe.

(c) Acts described.—For purposes of this section, the acts referred to in this subsection are—

(1) the individual's renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5))

(2) the individual's furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)-(4))

(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

(4) the cancellation by a court of the United States Department of a naturalized citizen's certificate of naturalization.

(d) Penalty.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year of the 10-year period beginning on the date of loss of United States citizenship during any portion of which such failure continues in an amount equal to 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

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unless it is shown that such failure is due to reasonable cause and not to willful neglect.

(e) Information to be provided to Secretary.—Notwithstanding any other provision of law—

(1) any Federal agency or court which collects information required to be included in a statement under subsection (a) shall provide to the Secretary—

(A) a copy of any such statement, and

(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State,

(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

(4) Reporting by long-term lawful permanent residents who cease to be taxed as residents.—In lieu of applying the last sentence of subsection (a), an individual who is required to provide a statement under subsection (b) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

(g) Exemption.—The Secretary may by regulations exempt any class of individuals from the application of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.

(h) Clerical amendment.—The table of sections for such subpart A is amended by inserting after the item referring to section 6039F the following new item:

"Sec. 6039G. Information on individuals losing United States citizenship."
"(1) all assets, liabilities, and items of income, gain, deduction, loss, and credit of a FASIT shall be treated as assets, liabilities, and such items (as the case may be) of such holder.

(2) A method (including the rules of section 172(a)(6)) shall be applied under an accrual method of accounting in determining all interest, acquisition discount, original issue discount, and market discount and all premium deductions or adjustments with respect to all debt instruments of the FASIT.

(3) the amount of the tax imposed by section 860(e) (relating to tax on income from foreclosure property) shall be allowed as a deduction.

(4) The amount there shall not be taken into account any item of income, gain, loss, or deduction allocable to prohibited income, and

(5) interest accrued by the FASIT which is exempt from tax imposed by this subtitle, when taken into account by such holder, be treated as ordinary income.

For purposes of this subtitle, securities treated as held by such holder under paragraph (1) shall be treated as held for investment.

"(c) Treatment of Regular Interests.—For purposes of this title—

(1) a regular interest in a FASIT, if not otherwise a debt instrument, shall be treated as a debt instrument;

(2) section 163(e)(5) shall not apply to such an interest;

(3) amounts includible in gross income with respect to such an interest shall be determined under an accrual method of accounting.

"SEC. 860J. NON-FASIT LOSSES NOT TO OFFSET TREATMENTS TO AND DISTRIBUTIONS FROM A FASIT AND IN OTHER CASES.

(a) Contributions to FASIT.—

(1) in General.—If property is contributed to a FASIT by the holder of the ownership interest in such FASIT, gain (if any) shall be recognized in an amount equal to the excess (if any) of such property's value under subsection (e) on the date of such contribution over its adjusted basis on such date.

(2) Debt instruments acquired other than by contribution by holder of ownership interest.—For purposes of this part, any debt instrument which is acquired by a FASIT other than in a contribution by the holder of the ownership interest in the FASIT shall be treated—

(A) as having been acquired by such holder at its fair market value on the date of its acquisition by the FASIT, and

(B) as having been contributed by such holder to the FASIT at its value under subsection (e) on such date.

(3) DEFERRAL OF GAIN RECOGNITION.—The Secretary may prescribe regulations which—

(A) provide that gain otherwise recognized under paragraph (1) shall not be recognized before the earliest date on which such property supports any regular interest in such FASIT or any indebtedness of the holder of the ownership interest (or of any person related to such holder), and

(B) provide such adjustments to the other provisions of this section in the context of the treatment provided under subparagraph (A).

(b) Certain Distributions.—If a FASIT makes a distribution of property with respect to the ownership interest in the FASIT, gain (if any) shall be recognized to such FASIT on the distribution in the same manner as if the FASIT had sold such property to the distributee at its value under subsection (e) on the date of such distribution.

(c) Gain Recognition on Property Outside FASIT.—

(1) in the case of a regular interest, such holder of a FASIT (or by any person related to such holder) supports any regular interest in such FASIT, and

(2) (A) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this section.

(2) the alternative minimum taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year shall be less than the taxable income determined solely with respect to such interests, and

(3) any increase in taxable income under this section shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

"SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD INTERESTS TO DISQUALIFIED HOLDERS.

(a) General Rule.—If any high-yield interest is held by a disqualified holder, this chapter shall be applied as if the transferor of such interest to such holder had not transferred such interest.

(b) Exceptions.—Rules similar to the rules of paragraphs (4) and (7) of section 860(e) shall apply to the tax imposed by reason of section (a), (b), or (c).

(c) Disqualified Holder.—For purposes of this section, the term 'disqualified holder' means any holder other than an eligible corporation (as defined in section 860G(b)).

(d) Treatment of Interests Held by Securities Dealers.—

(1) in General.—Subsection (a) shall not apply to any high-yield interest held by a disqualified holder if such holder is a dealer in securities who acquired such interest exclusively for sale to customers in the ordinary course of business (and not for investment).

(2) Holdings of 31 Days or Less.—For purposes of subparagraph (A), (i), (ii), or (iii) of section 860(e)(a)(2), if—

(i) such dealer ceases to be a dealer in securities, or

(ii) such dealer commences holding the high-yield interest for investment, there is hereby imposed in addition to other taxes an excise tax equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of such dealer attributable to such interest for periods after the date of such cessation or commencement.

(3) Applying the Tax.—For purposes of subparagraph (A)(ii), a dealer shall not be treated as holding an interest for investment before the 61st day after the date the dealer acquired such interest unless such interest is so held as part of a plan to avoid the purposes of this paragraph.

"SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.

(a) FASIT.—

(1) in General.—For purposes of this title, the terms 'financial asset securitization investment trust' and 'FASIT' mean any person—

(A) which has for the taxable year, any of the characteristics which are regular interests or the ownership interest.

(b) Alternative Minimum Tax.—

(1) in the case of a regular interest, such holder of a FASIT (or by any person related to such holder) supports any regular interest in such FASIT, and

(2) as of the close of the 3rd month beginning after the day of its formation and at all
times thereafter, substantially all of the assets of which (including assets treated as held by the entity under section 860(c)(2)) consist of permitted assets, and
"(E) elections not described in section 851(a).
A rule similar to the rule of the last sentence of section 860D(a) shall apply for purposes of this paragraph.
(2) ELIGIBLE CORPORATION.—For purposes of paragraph (1)(C), the term `eligible corporation' means any domestic C corporation other than—
"(A) any corporation which, except for points at or above the section 856(a) ceiling or the section 856(b) ceiling below such points, would be prevented from its first day by the holder of the ownership interest in such entity.
"(4) TERMINATION.—If any entity ceases to be a FASIT at any time during the taxable year, such entity shall be treated as a FASIT for such taxable year or any succeeding taxable year.
(5) INADVERTENT TERMINATIONS, etc.—Rules similar to the rules of section 860(b)(2)(B) shall apply to inadvertent failures to qualify or remain qualified as a FASIT. The preceding sentence shall not apply to cash equivalents and to any property acquired by a FASIT.
(6) INTERESTS IN FASIT. For purposes of this part—
"(1) REGULAR INTEREST.—
"(A) IN GENERAL.—The term `regular interest' means any interest in a debt instrument which would be described in subparagraph (B) but for failing to meet the requirements of one or more of clauses (i), (ii), (iii), or (iv) thereof.
"(B) EXCEPTION FOR INTEREST FROM CERTAIN DISPOSITIONS.—
"(A) IN GENERAL.—Paragraph (1)(B) shall not apply to any interest which was not a prohibited transaction (as defined in section 860F(a)(2)(A)) by reason of—
"(I) clause (i), (ii), or (iv) of section 860F(a)(2)(A),
"(ii) section 860F(a)(5), if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.
"(B) SUBSTITUTION OF DEBT INSTRUMENTS; REDUCTION OF OVER-COLLATERALIZATION.—Paragraph (2)(B) shall apply to—
"(i) the substitution of a debt instrument described in subsection (c)(1)(B) for another debt instrument which is a permitted asset, and
"(ii) the distribution of a debt instrument contributed by the holder of the ownership interest to such holder in order to reduce over-collateralization of the FASIT, but only if a principal purpose of acquiring the debt instrument which is disposed of was not the recognition of gain (or the reduction of a loss) as a result of an increase in the market value of the debt instrument after its acquisition by the FASIT.
"(C) LIQUIDATION OF CLASS OF REGULAR INTERESTS.—Paragraph (2)(B) shall not apply to the complete liquidation of any class of regular interests.
"(D) IN GENERAL.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each FASIT. Such tax shall be computed by multiplying the net income from foreclosure property in possession in the highest rate of tax specified in section 121(b).
"(E) NET INCOME FROM FORECLOSURE PROPERTY.—For purposes of this part, the term `net income from foreclosure property' means the amount which would be the FASIT's net income from foreclosure property under section 856(e) if the FASIT were a real estate investment trust.
"(F) COORDINATION WITH WASH SALES RULES.—Rules similar to the rules of section 860(d)(5) shall apply to the ownership interest in a FASIT.
"(G) RELATED PERSON.—For purposes of this part, a person (hereinafter in this subsection referred to as the `related person') is related to any person if—
"(i) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or
"(ii) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 267(c)).
For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), `20 percent' shall be substituted for `50 percent'.
"(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent the abuse of the purposes of this part through transactions which are not primarily related to securitization of debt instruments by a FASIT.
"(I) TECHNICAL AMENDMENTS.—
"(1) Paragraph (2) of section 26(b) is amended by striking `and' at the end of subparagraph (M), by striking the period at the end of subparagraph (N), and by adding at the end the following new subparagraph:
"(O) section 860K (relating to treatment of transaction of high-yield interests to disqualified holders),
"(2) Paragraph (6) of section 56(g) is amended by striking `or REMIC' and inserting `REMIC, or',
"(3) Clause (ii) of section 382(l)(4)(B) is amended by striking `or a REMIC to which part IV of subchapter M applies' and inserting `a REMIC to which part IV of subchapter M applies', and
"(3) Except for income from certain dispositions.—
"(A) IN GENERAL.—Paragraph (1)(B) shall not apply to any transaction of which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—
in the year in which the contributions and expend-
itures to which contributions are allocated, and
amount was received, and

(B) PREDOMINANTLY.—The term 'predomi-
nantly' means 80 percent or more.

(c) REGULATION.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage dis-
posals services to members of the general public in its service area.

(d) DISALLOWANCE OF DEDUCTIONS AND CRED-
ITS; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection ap-
plies. The adjusted basis of any property ac-
quired with contributions in aid of construction to which this subsection applies shall be zero.

(d) STATUTE OF LIMITATIONS.—If the tax-
payer for any taxable year treats an amount as a contribution to the capital of the taxpayer de-
scribed in subsection (c), then—

(1) the statute period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date on which the taxpayer (in such manner as the Secretary may prescribe) of—

(A) the amount of the expenditure referred to in subparagraph (B) of subsection (c)(2) and

(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph.

(2) such deficiency may be assessed before

the period described in subparagraph (B) of

subsection (c)(2); and

(3) such deficiency may be assessed after

the expiration of such 3-year period notwith-
standing the provisions of any other law or rule of
law which would otherwise prevent such as-
seessment.

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(2) CONFORMING AMENDMENT.—Section 118(b) is amended by inserting 'except as provided in subsection (c),'' before 'the term'.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts re-
ceived after the date of the enactment of this Act.

(b) RECOVERY METHOD AND PERIOD FOR W ATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METH-
OD.—Section 168(f)(3) is amended by adding at the end the following new subparagraph:

'(F) Water utility property described in sub-
section (e)(5),

(2) 25-YEAR RECOVERY PERIOD.—The table con-
tained in section 168(f)(1) is amended by insert-
ing the following item after the item relating to 20-year property:

'Water utility property'

(3) W ATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e)(3) is amended by inserting after subsection (c)(2) the following new subparagraph:

'Water utility property means property—

(A) which is an integral part of the gather-
ing, treatment, or commercial distribution of water, and which, without regard to this para-
graph, would be 20-year property, and

(B) any municipal sewer.'

(B) CONFORMING AMENDMENTS.—Section 168 is amended—

(1) by striking subparagraph (F) of subsection (e)(3), and

(2) by striking the item relating to subpara-
graph (F) in the table in subsection (g)(3)

(4) ALTERNATIVE SYSTEM.—Clause (iv) of sec-
tion 168(g)(2)(C) is amended by inserting 'water utility property' after 'distributable.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, other than property placed in service pur-
suant to a binding contract in effect on such date and at all times thereafter before the prop-
erty is placed in service.

(b) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1994.

Sec. 11363. CLASS LIFE FOR GAS STATION CONVENIENCE STORES AND SIMILAR STRUCTURES.

(a) IN GENERAL.—Section 168(5)(E)(iii) (classifying certain property as 15-year prop-
erty) is amended by striking 'and' at the end of clause (i), and inserting 'and' and adding at the end the following new clause:

'(ii) any property which is a reta-
ller motor fuels outlet (whether or not other con-
venience items are sold at the outlet).

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(g)(5)(E) is amended by inserting the following item after the item relating to subparagraph (E)(iii):

'E(2)(...20.'. 

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of the en-
actment of this Act and to which such subsection applies with respect to any property placed in service before such date and to which such section so applies.

Chapter 9—Other Provisions

Sec. 11371. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTED RETURNS

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amend-
ed by adding at the end the following new sub-
section:

'(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under sec-
tion 6020(b),—

'(1) such return shall be disregarded for pur-
poses of determining the amount of the addition under paragraph (1) of subsection (a), but

(2) such return shall be treated as though it were filed by the taxpayer for purposes of determin-
ing the amount of the addition under paragraphs (2) and (3) of subsection (a).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply in the case of any return the due date for which (determined with-
out regard to extensions) is after the date of the enactment of this Act, other than returns of the type described in section 6020(b).

Sec. 11372. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING Winnings

(a) REPEAL OF EXEMPTION FOR BINGO AND KENO.—Section 3402(q) is amended to read as follows:

'(5) EXEMPTION FOR SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine held by a nonresident as a nonresident.

(b) THRESHOLD AMOUNT.—Paragraph (3) of section 3402(q) is amended—
(i) by striking ``(B) and (C)'' in subparagraph (1), and inserting:  
``(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for stock in the company or companies to which such assets are transferred, and 

(b) Limitation on Election.—An election may be made under clause (i) with respect to any loss only for any taxable year in which the sale or exchange of the foreclosure property occurred.

(c) Election to Treat Unamortized Ordinary Losses as Capital Losses.—

(ii) IN GENERAL.—The taxpayer may elect to treat any amortizable portion of any loss arising from the sale or exchange of foreclosure property which (without regard to this paragraph) is treated as a capital loss shall be treated as arising from the sale or exchange of real property used in carrying on an insurance business which is recognized ratably over the 10-taxable year period beginning with the taxable year following the year in which the sale or exchange of the foreclosure property occurred.

(ii) Amortizable Portion.—For purposes of this paragraph—

(iii) such company having bid on such property at foreclosure, or

such transfer shall be increased by the amount so recognized, and

(iii) such company having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default (or default was imminent) on indebtedness which was secured by such property.

(E) TIME FOR MAKING ELECTIONS.—Any election under this paragraph for any taxable year shall be made on or before the due date (including extensions) for the return of tax for such taxable year.

(b) Conforming Amendments.—Sec. 11376. Election to Cease Status as Qualified Scholarship Funding Corporation.

(a) In General.—Subsection (d) of section 136(c) (defining energy conservation measure) is amended by striking ``energy demand'' and all that follows and inserting "energy demand with respect to a dwelling unit.

(i) IN GENERAL.—If, in any transfer referred to in paragraph (1)(A) (or to which the preceding sentence applies) of subparagraph (A) of paragraph 1 of subparagraph (A) and clauses (i) and (ii) of subparagraph (A), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 1994.


(a) General Rule.—Section 584 (relating to common trust funds) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively.

(b) Conforming Amendments.—

(i) IN GENERAL.—The taxpayer may elect to have this paragraph (1) apply to any loss to which the taxpayer elects to have this paragraph apply. 

(ii) Subsequent Modifications of Amount.—The taxpayer may elect for any of the taxable years in the change period to change (subject to the limitation under clause (i)) the percentage of a loss referred to in subparagraph (A) which is treated as the amortizable portion of such loss. If the taxpayer so elects, such change percentage shall be treated as if it were the percentage specified in the election made under paragraph (1), and proper adjustments shall be made for all taxable years to reflect each such change.

(iii) Statute of Limitations.—For purposes of section 6501(h) and 6511(d)(2), any change by reason of an election under clause (ii) shall be treated as a capital loss carryback from the year such change is made.

(iv) Change Period.—For purposes of clause (iii), the change period is the 3-taxable year period following the taxable year in which the sale or exchange of the foreclosure property occurred.

(C) Election to Treat Unamortized Ordinary Losses as Capital Losses.—

(i) In General.—The taxpayer may elect to treat any amortizable portion of any loss arising from the sale or exchange of foreclosure property which (without regard to this paragraph) is treated as a capital loss shall be treated as arising from the sale or exchange of real property used in carrying on an insurance business which is recognized ratably over the 10-taxable year period beginning with the taxable year following the year in which the sale or exchange of the foreclosure property occurred.

(ii) Amortizable Portion.—For purposes of this paragraph—

(iii) such company having bid on such property at foreclosure, or

such transfer shall be increased by the amount so recognized, and

(iii) such company having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default (or default was imminent) on indebtedness which was secured by such property.

(E) TIME FOR MAKING ELECTIONS.—Any election under this paragraph for any taxable year shall be made on or before the due date (including extensions) for the return of tax for such taxable year.

(b) Conforming Amendments.—Sec. 11376. Election to Cease Status as Qualified Scholarship Funding Corporation.

(a) In General.—Subsection (d) of section 136(c) (defining energy conservation measure) is amended by striking "energy demand" and all that follows and inserting "energy demand with respect to a dwelling unit.

ii) any liability of the common trust fund as assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

(i) any liability to which property so transferred is subject.

(c) Basis Rules.—

(A) Regulated Investment Company.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the transferor.

(B)Participants.—The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property transferred. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of the respective fair market values.

(iii) Treatment of Assumptions of Liability.—

(A) In General.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, is not a transfer of an obligation to enforce a claim against any such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

(ii) Special Rule Where Assumed Liabilities Exceed Basis.—

(i) In General.—If, in any transfer referred to in paragraph (1)(B), the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies, in each such company an additional amount shall be recognized to the common trust fund by reason of such transfer.

(ii) basis of the assets received by the regulated investment company or companies in

such transfer shall be increased by the amount so recognized, and

(iii) any adjustment to the basis of a participant's interest in the common trust fund as a result of such transfer shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is of bonds (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraph (B) of paragraph (1) and the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.

(B) Assets and Liabilities of Issuer Transferring Taxable Subsidary.—The requirements of this subparagraph are met by an issuer if—

(1) such transfer is made on or before the due date (including extensions) for the return of tax for such taxable year.

(2) basis of the assets received by the regulated investment company or companies in

such transfer shall be increased by the amount so recognized, and

(3) any adjustment to the basis of a participant's interest in the common trust fund as a result of such transfer shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).
“(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of the student loans, including any equity interest in the corporation having a fixed right upon liquidation or redemption (whichever is earlier) to receive any proceeds prior to payment of liquidation proceeds to a person (directly or indirectly) insured is—

(ii) an affiliate of such organization which is a member of such board) receives no compensation for services for the benefit of such organization or an affiliate of such organization (whether or not such organization is exempt from tax under section 501(a), or

(iii) a director or officer of, or an individual who is required by reason of the amendments made by this section to change its method of computing reserves for bad debts—

with respect to any equity interest in the corporation having a fixed right upon liquidation or redemption (whichever is earlier) to receive any proceeds prior to payment of liquidation proceeds to a person (directly or indirectly) insured is—

(b) such change shall be treated as a change in a method of accounting.

(i) the balance of the reserves described in section 593(c)(1) of such Code (as in effect on the date that is the earlier of—

(1) the balance of the reserves described in section 593(c)(1) of such Code (as in effect on the date that is the earlier of—

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(8) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7) Sections 595 and 596 are hereby repealed.

(8) Subsection (a) of section 806 is amended—

(A) by striking "except as provided in paragraph (2), the" in paragraph (1) and inserting "The";

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and 5 as paragraphs (2) and (3), respectively, and

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 11376. TRANSITION RULE TO INTEREST ALLOCATION RULES.

(a) IN GENERAL.—Subsection (d) of section 50 is amended by adding at the end thereof the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of section 4942(e) referred to in paragraph (1) of this subsection will not apply to any taxable year beginning after December 31, 1995."
SMALL BANKS.—In the case of a bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995—

(i) the balance taken into account under subparagraph (A)(iii) shall not be less than the amount which would be the balance of such reserve (as so defined) for such taxable year if such bank had not been a bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995;

(ii) the balance taken into account under subparagraph (A)(ii) shall not be more than the amount which would be the balance of such reserve (as so defined) for such taxable year if such bank had not been a bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995.

The preceding sentence shall not apply for purposes of paragraphs (5), (6), and (7).

(3)Recapture of Pre-1988 Reserves Where Taxpayer Ceases to Be Bank.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is no longer a bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995, the balance taken into account under subparagraph (A)(i) shall be reduced by the balance taken into account by such taxpayer under subparagraph (2)(A)(ii) of this subsection, and the balance taken into account by such taxpayer under paragraph (2)(A)(iii) of this subsection shall continue to be treated as the balance referred to in subparagraph (A)(i).

(4)Suspension of Recapture if Residential Loan Requirement Met.—

(A) In General.—In the case of a bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995, and before January 1, 1996, if the additions to such reserve for all taxable years had been determined under section 585(b)(2)(A), and the total amount of such additions was the highest and the taxable year in which the election was made as determined under section 593(e), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during such year.

(B) Treatment under Elective Cut-Off Method.—For purposes of applying section 585(c)(4) of such Code—

(i) the balance taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under subparagraph (2)(A)(ii) of this subsection;

(ii) no amount shall be includable in gross income by reason of such reduction.

SEC. 11380. NEWSPAPER DISTRIBUTORS TREATED AS OWNERS OF RESIDENCES

(a) In General.—Section 508(b)(2)(A) in amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) is engaged in the trade or business of the delivery of mail on a rural route and who resides throughout the 3-year period ending on the day before the date of the enactment of this Act."}

Subchapter B—Other Provisions

SEC. 11411. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) In General.—Section 513, as amended by the Revenue Act of 1984, is amended by adding the following new paragraph:

"(2) The term "rural mail carrier" shall be treated as the term "rural carrier" as defined in section 513.

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 11403. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR CERTAIN SPOUSES

(a) In General.—Paragraph (2) of section 121(b) (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55), is amended by adding at the end the following new sentence: "For purposes of applying the preceding sentence to elections made by each spouse, if an election by one individual with respect to a sale or exchange occurring before the marriage shall be disregarded for purposes of permitting an election with respect to property owned and used by the other individual as his principal residence throughout the 3-year period ending on the date of the marriage."

(b) Effective Date.—The amendments made by subsection (a) shall apply for purposes of determining whether an election may be made under section 121 of the Internal Revenue Code of 1986 with respect to a sale or exchange occurring after September 13, 1995.
amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall not be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for Consumer Price Index (as defined in section 1(f)(15)) since 1991.

(b) Technical Amendment.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) Effective Date.—The amendments made by this section shall be treated as a distribution to one recipient for purposes of the meaning of section 401(c)(1). For purposes of this section, the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

(iii) trusts which are not qualified trusts under section 402(a) and annuity contracts which do not satisfy the requirements of section 402(g)(2) shall apply.

(iii) Community Property Laws.—The provisions of this paragraph shall be applied without regard to community property laws.

(iv) Amounts Subject to Penalty.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

(v) Balance to Credit of Employee Not to Include Amounts Payable under Qualified Domestic Relations Order.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

(vi) Transfers to Cost-of-Living Arrangement Not Treated as Distribution.—For purposes of this paragraph, the transfer of the credit of an employee under a defined contribution plan shall not include any amounts transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

'Ve 'Lump-Sum Distributions of Alternate Payees.'—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.

'Section 402(c)(4) (relating to rollovers from exempt trusts) is amended as follows:

(D) Lump-Sum Distribution.—For purposes of this paragraph—

(i) in general.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

(I) on the account of the employee's death,

(II) after the employee attains age 591/2,

(III) on the account of the employee's separation from service, or

(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 403(a) and which is exempt from tax under section 501(a) or from a plan described in section 403(a), except for the facts that it is a trust created or organized outside the United States shall be treated as if after a trust exempt from tax under section 501(a).

(ii) Conforming Amendments.—

(1) Paragraph (4) of section 402(e) (relating to rollovers from exempt trusts) is amended as follows:

(D) Lump-Sum Distribution.—For purposes of this paragraph—

(i) in general.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

(I) on the account of the employee's death,

(II) after the employee attains age 591/2,

(III) on the account of the employee's separation from service, or

(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 403(a) and which is exempt from tax under section 501(a) or from a plan described in section 403(a), except for the facts that it is a trust created or organized outside the United States shall be treated as if after a trust exempt from tax under section 501(a).

(ii) Special Rules for Qualified Employer Retirement Plans.—

'Ve 'Simplified Method for Taxing Annuity Distributions Under Certain Employer Plans.'—

(a) General Rule.—Subsection (b) of section 72 (relating to annuities; certain proceeds of employer plans) is hereby repealed.

(b) Conforming Amendments.—

(1) Subsection (c) of section 101 is amended by striking 'subsection (a) or (b)' and inserting 'subsection (a)';

(2) Sections 406(e) and 407(e) are each amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 7701(a)(20) is amended by striking ', for the purposes of applying the provisions of section 101(b) with respect to employees' death benefits'.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

'Section 11423. Repeal of 55,000 Exclusion of Employees' Death Benefits.'—

(a) In General.—Subsection (b) of section 101 is hereby repealed.

(b) Conforming Amendments.—

(1) Subsection (c) of section 101 is amended by striking 'subsection (a) or (b)' and inserting 'subsection (a)';

(2) Sections 406(e) and 407(e) are each amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 7701(a)(20) is amended by striking ', for the purposes of applying the provisions of section 101(b) with respect to employees' death benefits'.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

'Section 11423. Simplified Method for Taxing Annuity Distributions Under Certain Employer Plans.'—

(a) General Rule.—Subsection (b) of section 72 (relating to annuities; certain proceeds of employer plans) is hereby repealed.

(b) Conforming Amendments.—

(1) Subsection (b) shall not apply, and

(ii) the investment in the contract shall be recovered as provided in this paragraph.

(c) Method of Recovering Investment in Contract.—

(i) In General.—Income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

(I) the investment in the contract (as of the beginning of the year in which the first annuity payment is made) by the number of months in the contract period,

(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (b)(2)(B) applies, the benefits of any similar to the rules of paragraphs (2) and (3) of such section (b) shall apply for purposes of this paragraph.

(iii) Number of Anticipated Payments.—
by this section shall apply in cases where the employee attains age 70 1/2, or in the case of an employee who is a 5-percent owner at any time during the year or the preceding year, or

(ii) the greater of—

(A) 50 employees of the employer, or

(B) 50 percent of any time during the year or the preceding year, or

For purposes of this paragraph—

(i) the calendar year in which the employee attains age 70 1/2, or

(ii) the calendar year in which the employee retires.

(iii) Exemption.—Subclause (ii) of clause (i) shall not apply—

(A) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70 1/2, or

(B) for purposes of section 408(a)(6) or (b)(3).

(iii) Actuarial Adjustment.—In the case of an employee whose clause (i)(1) applies who retires in a calendar year after the calendar year in which the employee attains age 70 1/2, the employee's accrued benefit shall be actuarially increased, taking into account the period after age 70 1/2 in which the employee was not receiving any benefits under the plan.

(iv) Exception for Governmental and Church Plans.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).

(b) Effective Date.—The amendment made by this subsection applies to years beginning after December 31, 1994.

Subchapter B—Increased Access to Pension Plans

SEC. 11431. Tax-Exempt Organizations Eligible Under Section 401(k).

(a) In General.—(B) of section 401(k)(4) is amended to read as follows:

(i) Eligibility of State and Local Governments and Tax-Exempt Organizations.—

(ii) Governments Ineligible.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This clause shall not apply to a rural cooperative plan.

(iii) Tax-Exempts Eligible.—

(i) In General.—Any organization exempt from tax under this subtitle may include a cash or deferred arrangement as part of a plan maintained by it.

(ii) Treatment of Indian Tribal Governments.—An employer which is an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency or instrumentality of an Indian tribal government, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing shall be treated as an organization exempt from tax under this subtitle for purposes of subclause (I).

(iii) Effective Date.—The amendment made by this section applies to plan years beginning after December 31, 1996, but shall not apply to any cash or deferred arrangement to which clause (ii) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

Subchapter C—Nondiscrimination Provisions

SEC. 11441. Highly Compensated Employees; Repeal of Family Aggregation.

(a) In General.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

(i) In General.—The term 'highly compensated employee' means any employee—

(A) who was a 5-percent owner at any time during the year or the preceding year; or

(B) for the preceding year had compensation from the employer in excess of $80,000 and was in the top-paid group of the employer.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 414(d), except that the base period shall be the calendar quarter ending September 30, 1996.

(ii) Repeal of Family Aggregation Rules.—

(1) In General.—Paragraph (6) of section 414(q) is hereby repealed.

(2) Compensation Limit.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(iii) Deduction.—Subsection (I) of section 404 is amended by striking the last sentence.

(iv) Conforming Amendments.—

(A) Section 414(d)(2) is amended by adding after the last sentence the following new paragraph:

(B) Sections 129(d)(8)(B), 401(a)(5)(D)(i), 408(k)(1)(C), and 416(i)(1)(D) are each amended by striking "section 414(q)" and inserting "section 414(q)(4)".

(C) Section 416(i)(1)(A) is amended by striking "section 414(q)(4)" and inserting "section 414(q)(9)".

(ii) Section 414(r) is amended by adding after the last sentence the following new paragraph:

(iii) Excluded Employees.—For purposes of this subsection, the following employees shall be included:

(A) Employees who have not completed 6 months of service.

(B) Employees who normally work less than 1 1/2 hours per week.

(C) Employees who normally work not more than 6 months during any year.

(iv) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

(v) As excepted by the Secretary, the employer, or any of the employees, the amendment shall be treated as having been in effect for years beginning in 1995.

SEC. 11442. Modification of Additional Participation Requirements.

(a) General Rule.—Section 402(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

(A) In General.—In the case of a trust, such trust shall constitute a qualified trust under this subsection unless on any date during the plan year such trust benefits at least the lesser of—

(i) 50 employees of the employer, or

(ii) the greater of—

(A) 40 percent of all employees of the employer, or

(B) 2 employees (or if there is only 1 employee, such employee).''.

(b) Separate Line of Business Test.—Section 402(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) Effective Date.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 11443. Nondiscrimination Rules for Qualified Cash or Deferred Arrangements and Matching Contributions.

(a) Alternatives and Methods of Satisfying Section 401(k) Nondiscrimination Tests.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding after the last sentence the following new paragraph:

"(12)替代 Alternate Method Meeting Nondiscrimination Requirements.—"
(ii) meets the contribution requirements of subparagraph (B) or (C), and

(iii) meets the notice requirements of subparagraph (D).

(2) MATCHING CONTRIBUTIONS.—

(i) IN GENERAL.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than with respect to an employee who is not a highly compensated employee.

(ii) PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under an arrangement shall not be treated as failing to meet the requirements of clause (i).

(iii) The aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were on the basis of the percentages described in clause (i).

(b) NONSELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, any employee may be made contributions or elective deferrals of an excess of 6 percent of the employee's compensation.

(c) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

(i) matching contributions on behalf of any employee may not be made with respect to any employee contributions or elective deferrals in excess of 6 percent of the employee's compensation,

(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than with respect to an employee who is not a highly compensated employee.

(c) YEAR FOR COMPUTING NONHIGHERLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) Cash or deferred arrangements.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year";

(B) by striking "for such plan year" and inserting "the preceding plan year";

(C) by adding at the end the following: "An arrangement may apply this clause by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.";

(2) Matching and employee contributions.—Section 401(k)(11) is amended—

(A) by inserting "for such plan year" after "highly compensated employee";

(B) by inserting "for the preceding plan year" after "highly compensated employee";

(C) by adding at the end the following: "An arrangement may apply this paragraph by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.";

(3) Effective date.—The amendments made by this paragraph shall apply to years beginning after December 31, 1996.

(d) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

(1) Paragraph (c) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess aggregate contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each such employee".

(2) Effective date.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 11444. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) General rule.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

"(D) Any amount which is contributed by the employer at the election of the employee and which is not includable in the gross income of the employee under section 125 or 457.

(b) Conforming amendments.—(1) Section 414(q)(4), as redesignated by section 11441, is amended to read as follows:

(7) Compensation.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(q)(7).

(2) Section 414(s)(2) is amended by inserting "not" after "elect" in the text and heading thereof.

(c) Effective date.—The amendments made by this section shall apply to years beginning after December 31, 1997.

Subchapter D—Miscellaneous Provisions

SEC. 11451. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) Aggregation rules.—Section 401(d) (relating to additional requirements for qualified plans and plans of owner-employees) is amended by adding as follows:

"(d) Contribution limit on owner-employees.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.

(b) Effective date.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 11452. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEmployER PLANS.

(a) In general.—Paragraph (a) of section 411(a) (relating to minimum vesting standards) is amended by adding at the end the following new subparagraph:

"(A) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

(1) 3 percent;

(2) if the employer makes an election under this subparagraph, the actual deferral percentage of nonhighly compensated employees determined for such plan year;

(3) if any plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.

(b) Effective date.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) May 1, 1996, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the
plan is maintained terminates (determined without regard to any extension thereafter the date of the enactment of this Act), or
(2) January 1, 1998. Such election shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 11453. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.
(a) DISTRIBUTION FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:
(3) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½.
(b) URBAN DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:
(ii) any organization which—
(I) is primarily in providing electric service on a mutual or cooperative basis, or
(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under section 1391 by reason of being or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof)

(c) EFFECTIVE DATES.—
(1) DISTRIBUTIONS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1995.
(2) RURAL COOPERATIVE.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1995.

SEC. 11454. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.
(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:
(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In any case of a governmental plan (as defined in section 414(d)), paragraph (B) of subsection (a) shall not apply.

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—
(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:
(11) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements for qualification under sections 415 and 416, benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan for purposes of section 415.

(c) EFFECTIVE DATES.—
(1) GENERAL.—Section 415 is amended by adding at the end the following new subparagraph:
(12) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

SEC. 11455. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.
(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 415(e) (relating to definitions and special rules) is amended to read as follows:
(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—The total amount payable to a participant under the plan to which this section applies shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant’s consent) if—
(i) such amount does not exceed $3,500, and
(ii) the participant may distribute such amount without the participant’s consent if—
(i) such amount does not exceed $3,500, and
(ii) the participant may distribute such amount without the participant’s consent if—

SEC. 11456. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.
(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following new subparagraph:

SEC. 11457. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.
(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 415(e) (relating to definitions and special rules) is amended to read as follows:
(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—The total amount payable to a participant under the plan to which this section applies shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant’s consent) if—
(i) such amount does not exceed $3,500, and
(ii) the participant may distribute such amount without the participant’s consent if—

(b) DISCRIMINATION TESTING.—Paragraph (5) of section 415(a)(1) (relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

(c) EFFECTIVE DATE.—The amendment made by this section shall apply years beginning after December 31, 1995.
“(ii) the first day of the first limitation year beginning after December 31, 1999. Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 shall be made with respect to the benefits earned on or before the date of the enactment of this Act as in effect on December 7, 1994 (except that the modification made by subsection (b) shall be taken into account), and the provisions of the plan in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect).”

(2) MODIFICATION OF CERTAIN ASSUMPTIONS FOR ADJUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR EARLY RETIREES.—Subparagraph (E) of section 415(b)(2) (relating to limitation on certain assumptions applied in determining early retirement benefits), as amended by section 11454(b)(2), shall be treated as made first from amounts not described in clause (ii) of section 401(k) of such Code as in effect on December 31, 1995.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1995.

SEC. 11459. TRANSITION RULE FOR COMPUTING MAXIMUM BENEFITS UNDER SECTION 415 LIMITATIONS.

(a) IN GENERAL.—Subsection (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended to read as follows:

“(A) EXCEPTION.—A plan that was adopted and in effect before December 31, 1994, shall not be required to apply the amendments made by subsection (b) with respect to benefits accrued before the earlier of—

(1) the date a plan amendment applying such amendment is adopted or made effective, or

(2) the first day of the first limitation year beginning after December 31, 1999. Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 shall be made with respect to the benefits earned on or before the date of the enactment of this Act as in effect on December 7, 1994 (except that the modification made by subsection (b) shall be taken into account), and the provisions of the plan in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect).”

(b) TRANSITION RULE FOR COMPUTING MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as in section 415(d), except that the base period shall be the calendar quarter ending September 30, 1994, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11458. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Section 457 is amended by adding at the end the following new paragraph:

“(3) other than a trust described in paragraph (2), any plan described in paragraph (1) shall be treated as an organization exempt from taxation under section 501(a), and

(4) notwithstanding any other provision of this title, amounts in a trust described in subsection (b)(6) shall be treated as trusts under rules similar to the rules under section 401(f).”

(b) CONFORMING AMENDMENT.—Paragraph (A) of section 457(b) is amended by inserting “as scheduled in subsection (g),” before “which provides that”.

(2) EFFECTIVE DATE.—(A) IN GENERAL.—Subsection (A) applies—

(i) in the case of a plan that was adopted and in effect before December 8, 1994, if—

(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act, the plan shall be treated as an eligible employer described in subsection (a) and

(2) within 1 year after the date of the enactment of this Act, a plan amendment is adopted which repeals the amendment referred to in paragraph (1),

(B) IN GENERAL.—Subsection (A) shall be treated as an organization exempt from taxation under section 501(a), and

(2) notwithstanding any other provision of this title, amounts in a trust described in subsection (b)(6) shall be treated as trusts under rules similar to the rules under section 401(f).”

(c) EFFECTIVE DATE.—For purposes of this title, amounts in the trust shall be includable in the gross income of participants and beneficiaries only to the extent, and at the time, provided in this section.

(2) EFFECTIVE DATE.—For purposes of this subsection, custodial accounts and contracts described in section 401(f) are treated as trusts under rules similar to the rules under section 401(f).”

(2) EFFECTIVE DATE.—For purposes of this section, amounts in a trust described in paragraph (1) shall be treated as trusts under rules similar to the rules under section 401(f).”

Sec. 11460. MODIFICATIONS OF SECTION 403(b).

(a) MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED.—(1) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(b) EFFECTIVE DATE.—This subsection shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—(1) IN GENERAL.—In the case of any contract purchased in a plan year beginning before January 1, 1995, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 771(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by an Indian tribal government.

(2) ROLLOVERS.—Soley for purposes of applying section 403(b)(8) of such Code to a contract to which paragraph (1) applies, a qualified cash or deferred arrangement under section 401(k) of such Code shall be treated as if it were a plan or contract described in clause (ii) of section 415(d)(2)(B)(i) (relating to governmental plans), except that—

(A) the aggregate amount which may be deferred under such arrangement shall be determined to the extent that such arrangement is described in section 415(d)(2)(B)(i) (relating to governmental plans), and

(B) the computation of the maximum amount which may be deferred under such arrangement shall be determined to the extent that such arrangement is described in section 415(d)(2)(B)(i) (relating to governmental plans), except that—

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1995.

Sec. 11461. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) General Rule.—For purposes of section 417(e)(3)(A) of the Internal Revenue Code of 1986 (relating to plan to provide written explanation), the minimum period prescribed by the Secretary of the Treasury before the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant’s spouse.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1995.

Sec. 11462. REPEAL OF LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE; EXCESS DISTRIBUTIONS.

(a) In General.—Section 415(e) is repealed.

(b) EXCESS DISTRIBUTIONS.—Section 4980A is amended by adding at the end the following new subsection:

“(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1995.”

Sec. 11463. WAIVER OF MINIMUM PERIOD FOR CONTRACTUAL TRANSITIONS.

(a) In General.—Section 4975(a) is amended by striking “5 percent” and inserting “10 percent”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after December 31, 1995.

Sec. 11464. TREATMENT OF LEASED EMPLOYEES.

(a) In General.—Section 414(n)(2) is amended to read as follows:

“(2) LEASED EMPLOYEES.—For purposes of this section and paragraph (c) of section 414(n)(2) (defining leased employee) is amended to read as follows:

“(C) such services are performed under primary authority of an employer which is an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by an Indian tribal government.”

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1995.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1995.

(3) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1995.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1995.

(3) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1995.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 1995.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1995.”

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after December 31, 1995, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 469, or to any relationship determined under section 469 of the Revenue Act of 1986 (as in effect on the day before such date) not to involve a leased employee.

CHAPTER 3—TREATMENT OF LARGE PARTNERSHIPS

SEC. 13471. SIMPLIFIED FLOWTHROUGH FOR ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding the following new part:

PART IV—SPECIAL RULES FOR ELECTING LARGE PARTNERSHIPS

Sec. 771. Application of subchapter to electing large partnerships.

Sec. 772. Simplified flow-through.

Sec. 773. Computations at partnership level.

Sec. 774. Other modifications.

Sec. 775. Electing large partnership defined.

Sec. 776. Special rules for partnerships holding oil and gas properties.

Sec. 777. Regulations.

Sec. 1371. APPLICATION OF SUBCHAPTER TO ELECTING LARGE PARTNERSHIPS.

The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to an electing large partnership and its partners.

SEC. 772. SIMPLIFIED FLOW-THROUGH.

(a) GENERAL RULE.—In determining the income tax of a partner of an electing large partnership, such partner shall take into account separately such partner’s distributive share of the partnership’s—

(1) taxable income or loss from passive loss limitation activities,

(2) taxable income or loss from other activities,

(3) net capital gain (or net capital loss),

(A) to the extent allocable to passive loss limitation activities, and

(B) to the extent allocable to other activities,

(4) tax-exempt interest,

(5) applicable net AMT adjustment separately computed for—

(A) passive loss limitation activities, and

(B) other activities,

(6) general credits,

(7) low-income housing credit determined under section 42,

(8) rehabilitation credit determined under section 414, and

(9) foreign income taxes.

(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner’s distributive share of such items of income, gain, loss, deduction, or credit of the partnership.

(c) TREATMENT AT PARTNER LEVEL.—

(1) IN GENERAL.—Except as provided in this subsection, paragraph (2) of subsection (a) shall be applied at the partner level (and not at the partnership level).

(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner’s distributive share of any income or loss described in subsection (a)(1) shall be treated as a net capital gain (or net capital loss (as the case may be)) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to any partner’s distributive share of any amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

(A) IN GENERAL.—For purposes of this chapter, any partner’s distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 91.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

(C) TAX-EXEMPT INTEREST.—For purposes of section 103, the term ‘tax-exempt interest’ means interest excludable from gross income under section 103.

(D) APPLICABLE NET AMT ADJUSTMENT.—The term ‘applicable net AMT adjustment’ means the net adjustment in the items at issue for purposes of section 56, 57, or 58.

(E) TREATMENT OF CERTAIN SEPARATELY STATED ITEMS.—

(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or loss (as the case may be), and any item referred to in subsection (a)(1), shall be excluded.

(B) ALLOCATION RULES.—The net capital gain shall be treated—

(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any other income or loss.

(C) NET CAPITAL LOSS.—The term ‘net capital loss’ means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

(D) GENERAL CREDITS.—The term ‘general credits’ means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

(E) FOREIGN INCOME TAXES.—The term ‘foreign income taxes’ means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

(F) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner’s distributive share of any item shall be taken into account separately to the extent necessary to comply with the provisions of section 512.

The preceding sentence shall not apply to any item allocable to an interest held as a limited partner.

SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

(a) GENERAL RULE.—

(1) TAXABLE INCOME.—The taxable income of an electing large partnership shall be computed in the same manner as in the case of an individual except that—

(A) the items described in section 772(a) shall be separately stated, and

(B) the modifications of subsection (b) shall apply.

(2) ELECTIONS.—All elections affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be made by the partnership; except that the election under section 901, and any election under section 108, shall be made by each partner separately.

(b) SEPARATE COMPUTATIONS.—In determining the taxable income of an electing large partnership, such partnership shall be applied at the partnership level (and not at the partner level).

(c) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

(i) Section 68 (relating to overall limitation on itemized deductions).

(ii) Sections 49 and 465 (relating to at risk limitations).

(iii) Section 469 (relating to limitation on passive activity losses and credits).

(iv) Any other provision specified in regulations.

(d) COORDINATION WITH OTHER PROVISIONS.—

(1) IN GENERAL.—Except as provided in subsection (b), all limitations and other provisions affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be applied at the partnership level (and not at the partner level).

(2) PARTNERSHIPS THAT ARE LARGE PARTNERSHIPS THAT ARE LARGE PARTNERSHIPS OF PARTNERSHIPS.—The term ‘large partnership’ means the net adjustment determined by any one of the electing large partnerships.

(3) LIMITATIONS, ETC.—

(A) IN GENERAL.—Except as provided in paragraph (b), all limitations and other provisions affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be applied at the partnership level (and not at the partner level).

(B) INDEFINITE TAX ON FOREIGN SOURCES.—The term ‘indefinite tax on foreign sources’ shall be applied at the partnership level (and not at the partner level).

(C) DEDUCTIONS FOR PERSONAL EXEMPTIONS.—

(i) In the case of a partner which is an individual, the following deductions shall not be allowed:

(A) The deduction for personal exemptions provided in section 151.

(B) The net operating loss deduction provided in section 172.

(ii) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).
"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the amount subject to tax under section 62(b)(2) shall apply.

(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of any itemized deductions shall be disallowed.

(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If an electing large partnership has income from the discharge of any indebtedness—

(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

(2) in determining the income tax of any partner of such partnership—

(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) Treatment of Certain Optional Adjustments, etc.—In the case of an electing large partnership—

(1) computations under section 773 shall be made without regard to any adjustment under section 74(b) or 108(b), but

(2) a partner's distributive share of any amount to the extent of such partner's share under section 772(a) shall be appropriately adjusted to take into account any adjustment under section 74(b) or 108(b) with respect to the partner.

(b) Credit Recapture Determined at Partnership Level.—

(1) In general.—In the case of an electing large partnership—

(A) any credit recapture shall be taken into account by the partnership, and

(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

(2) Method of Taking Recapture into Account.—An electing large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

(3) Dispositions Not to Trigger Recapture.—Such dispositions shall be required by reason of any transfer of an interest in an electing large partnership.

(c) Credit Recapture.—For purposes of this subsection, a credit recapture means any increase in tax under section 42(j) or 50(a).

(d) Partnership Not Terminated by Reason of Change in Ownership.—Subparagraph (B) of section 707(b)(1) shall not apply to an electing large partnership.

(e) Partnership Entitled to Certain Credits.—The following shall be allowed to an electing large partnership and shall not be taken into account by the partners of such partnership:

(1) The credit provided by section 34.

(2) Any credit or refund under section 852(b)(3)(D).

(f) Treatment of REMIC Residuals.—For purposes of applying section 860(e)(6) to any electing large partnership—

(1) all interests in such partnership shall be treated as held by disqualifieed organizations,

(2) in lieu of applying subparagraph (C) of section 860(e)(6), the amount subject to tax under section 860(e)(6) shall be excluded from the gross income of such partnership, and

(3) subparagraph (D) of section 860(e)(6) shall not be effective with respect to any partnership other than the electing large partnership.

(g) Special Rules for Applying Certain Installment Sale Rules.—In the case of an electing large partnership—

(1) sections 453(l)(3) and 453A shall be applied at the partnership level, and

(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under such chapter at the time the individual performed substantial services in connection with the activities of such partnership, or an individual who formerly performed substantial services in connection with the activities of such partnership but not on the Secretary.

(h) Special Rules for Certain Service Partnerships.—

(1) Certain Partners Not Counted.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with the activities of such partnership at the time the individual performed such services.

(2) Exclusion.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership if substantially all the partners of such partnership—

(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)(1)) the owner-em ployees (as defined in section 269A(b)(2)) of which perform such substantial services,

(B) are retired partners who had performed such substantial services, or

(C) are spouses of partners who are performing (or had previously performed) such substantial services.

(i) Special Rule for Lower Tier Partnerships.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partner owns directly an interest in the capital or profits of such other partnership.

(j) Exclusion of Commodity Pools.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

(k) Secretary May Rely on Treatment on Return.—If, on the partnership return of any partnership, such partnership is treated as an electing large partnership, such treatment shall not be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 775. ELECTING LARGE PARTNERSHIP DEFINED.

(a) General Rule.—For purposes of this part—

(1) In general.—The term 'electing large partnership' means, with respect to any partnership taxable year, any partnership if—

(A) the number of persons who were partners in such partnership in the preceding partnership taxable year equalled or exceeded 100, and

(B) such partnership elects the application of this part.

To the extent provided in regulations, a partnership shall cease to be treated as an electing large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

(2) Election.—The election under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

(b) Special Rules for Certain Service Partnerships.—

(1) Certain Partners Not Counted.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)(1)) the owner-employees (as defined in section 269A(b)(2)) of which perform such substantial services,

(2) Exclusion.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership if substantially all the partners of such partnership—

(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)(1)) the owner-employees (as defined in section 269A(b)(2)) of which perform such substantial services,

(B) are retired partners who had performed such substantial services, or

(C) are spouses of partners who are performing (or had previously performed) such substantial services.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

(a) Exception for Partnerships Holding Significant Oil and Gas Properties.—

(1) In general.—For purposes of this part, an election under section 776(a) shall not be effective with respect to any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is less than 25 percent.

(2) Exclusions.—Subparagraph (A) shall not be effective with respect to any partnership if subparagraph (B), (C), or (D) of section 705(a) shall not apply.

(B) such election shall be determined without regard to the provisions of section 63a(c) limiting the amount of production for which percentage depletion is allowable and without regard to paragraph (1) of section 63a(d), and

(c) paragraph (3) of section 705(a) shall not apply.

"(2) Treatment of Certain Partners.—

(a) In general.—In the case of a disqualified person, the treatment under this chapter of such person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 63a(c)—

(i) by taking into account all production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends, and

(ii) by taking into account all production of domestic crude oil and natural gas for any taxable year after such taxable year.

(b) Exclusion of Commodity Pools.—For purposes of subparagraph (A), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 63a(c)—

(i) by taking into account all production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends, and

(ii) by taking into account all production of domestic crude oil and natural gas for any taxable year after such taxable year.

(c) Average Daily Production.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 63a(c)—

(i) by taking into account all production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends, and

(ii) by taking into account all production of domestic crude oil and natural gas for any taxable year after such taxable year.

(d) Secretary May Rely on Treatment on Return.—If, on the partnership return of any partnership, such partnership is treated as an electing large partnership, such treatment shall not be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 777. REGULATIONS.

The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part.

(b) Clerical Amendment.—The table of parts for subchapter K of chapter 1 is amended by adding at the end the following new item:

"Part IV. Special rules for electing large partnerships.

(c) Effective Date.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.

SEC. 13472. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

(a) In General.—Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end the following new sentence:

'Pending the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.'
CHAPTER 4—FOREIGN PROVISIONS

Subchapter A—Modifications to Treatment of Passive Foreign Investment Companies

SEC. 11481. UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS NOT SUBJECT TO PFIC INCLUSION.

Section 1296 is amended by adding at the end the following new subsection:

"(e) EXCEPTION FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—

(1) IN GENERAL.—For purposes of this part, a corporation shall not be treated as a passive foreign investment company for purposes of this part, the shareholder's holding period with respect to such stock.

(2) QUALIFIED PORTION.—For purposes of this subsection, the term 'qualified portion' means the portion of the shareholder's holding period—

"(A) which is after December 31, 1995, and

"(B) during which the shareholder is a United States person (as defined in section 956(b)) of the corporation and the corporation is a controlled foreign corporation.

(3) NEW HOLDING PERIOD IF QUALIFIED PORTION ENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the qualified portion of a shareholder's holding period with respect to any stock of which it is the issuer and which offers for sale or has outstanding any marketable stock in a passive foreign investment company, the excess (if any) of—

"(i) the amount included in gross income under subsection (a)(1) with respect to such stock, and

"(ii) the amount allowed as a deduction under subsection (a)(2),

over the fair market value of such stock as of the date of the decedent's death, notwithstanding section 1014, the basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to subsection (a)(2)) and the date of the decedent's death, and (B) the unreversed inclusions with respect to such stock.

(2) TREATMENT OF CERTAIN DISPOSITIONS.—

In any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of paragraph (1) of a stock disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of its stock in the passive foreign investment company.

"(e) MARKETABLE STOCK.—For purposes of this section, 'marketable stock' means—

"(1) stock which is regularly traded on a market or system which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities Act of 1934, or

"(2) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, which is not subject to section 1015, the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, and

"(C) to the extent provided in regulations, any option on stock described in subparagraph (A) or (B).

"(f) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, any stock of a passive foreign investment company which it owns directly or indirectly shall be treated as marketable stock for purposes of this section. Except as provided in regulations, similar treatment as marketable stock shall be applied in the case of any other regulated investment company which publishes net asset valuations at least annually.

"(g) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN INVESTMENT COMPANIES.—In the case of a foreign corporation which is a controlled foreign corporation and which owns (or is treated under section 956(c)(1)(A)) stock in a passive foreign investment company—

"(1) this section (other than subsection (c)(2)) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subparagraph F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(h) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations,

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partner or for a foreign trust or foreign estate shall be considered to be owned proportionately by its partners or beneficiaries.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of its stock in the passive foreign investment company.
subsection (a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

(2) REQUIREMENTS.—The requirements of this subparagraph are met if, with respect to each of such corporation's taxable years for which such corporation was a passive foreign investment company and which begin after December 31, 1986, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part with respect to the taxpayer.

(2) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.— 
   "(A) IN GENERAL.—If a regulated investment company elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's taxable year for which such share or any stock owned by such corporation was held by a United States person, gain recognized on such stock in the hands of such other controlled foreign corporation, adjustments similar to the adjustments provided by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.— 
   (1) In general.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end of the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 951 in the gross income of such United States shareholder by reason of such person with respect to the stock involved.

(c) CONFORMING AMENDMENTS.— 
   (1) Section 1296(b)(1), as redesignated by section 1031 of the Act, is amended by striking "(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A) due to the increase in the basis of property by reason of subparagraph (B)."

(2) Subsection (f) of section 551 is amended by inserting at the end of subparagraph (B), by striking the period at the end of such subparagraph and inserting "and inserting "(section 1298(a))."

(3) Paragraph (3) of section 1297(b), as redesignated by section 1031 of the Act, is amended by inserting at the end of subparagraph (A), by striking "(i)" and inserting "(ii) such regulated investment company's tax year." (4) Paragraph (3) of section 1291 is amended by striking "(B)" and inserting "(A)(ii)."

(5) The table of sections for subpart D of part VI of chapter 1, as redesignated by subsection (a), is amended to read as follows: "Sec. 1297. Passive foreign investment company. 
   Sec. 1298. Special rules."

(6) The table of subparts for part VI of subchapter P of chapter 1 is amended by striking the last item and inserting the following new items: "Subpart C. Election of mark to market for mar- ketable stock. 
   Subpart D. General provisions."

(d) CLARIFICATION OF GAIN RECOGNITION ELECTION.—The last sentence of section 1296(b)(1), as redesignated by paragraph (3) thereof, is amended by inserting "(determined without regard to the pre- ceding sentence)" after "investment company".

SEC. 11483. MODIFICATIONS TO DEFINITION OF FOREIGN CORPORATION.— 
   (a) EXCEPTION FOR SAME COUNTRY INCOME NOT TO APPLY.—(1) Paragraph (1) of section 1297(b) (defining passive income), as redesignated by section 1031 of the Act, is amended by inserting before the period at the end of such paragraph "(thereof)".

(2) PASSIVE INCOME NOT TO INCLUDE FSC INCOME.—Paragraph (1) of section 1297(b), as so redesignated, is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; or", and by inserting after subparagraph (C) the following new subparagraph: "(I) any foreign trade income of a FSC." 

SEC. 11484. EFFECTIVE DATE. 
   The amendments made by this subchapter shall apply to taxable years of United States persons beginning after December 31, 1995, and taxable years of foreign corporations ending with or within such taxable years of United States persons.

Subchapter B—Treatments of Controlled Foreign Corporations

SEC. 11486. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS. 
   (a) GENERAL RULE.—Section 984 (relating to miscellaneous provisions) is amended by adding at the end the following new subsection: "(e) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS. 
   (1) In general.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includable, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1)."

"(2) "CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of law, substantially similar to the provisions of this section, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(12)(E) is amended by striking "and except as provided in regulations, the tax- payer was a United States shareholder in such corporation".

(c) EFFECTIVE DATES.— 
   (1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 11487. MISCELLANEOUS MODIFICATIONS TO SUBPART F. 
   (a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.— 
   (1) In general.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end of the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 951 in the gross income of such United States shareholder by reason of such person with respect to the stock involved.

(2) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to transactions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.— 
   (1) In general.—Section 961 (relating to adjust-ments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end of the following new sentence: "(C) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, the basis of a United States shareholder's share in a foreign corporation shall be treated under section 956(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be based on the value of stock held in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States share-holder) which is attributable to any por- tion of the interest of such United States share- holder by reason of which such shareholder was as a result of such stock sale, to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations.)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1995.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ET CETERA.— 
   (1) In general.—Section 999 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end of the following new subsection: "(6) ADJUSTMENT FOR CERTAIN TRANSACTIONS.—If by reason of— 
   "(1) a transaction to which section 304 applies, 

(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or 

(3) any other circumstances, there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of subsection (a), the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to
eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) clarification of treatment of branch tax exemptions or reductions.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding, at the end, the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account." (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1995.

SEC. 11488. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) general rule.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended by read as follows:

"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

"(1) for purposes of this section—

"(i) the term 'qualified group' means—

"(A) the foreign corporation described in subsection (a), and

"(B) any other foreign corporation if—

(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

(iii) such other corporation is not below the sixth tier in such chain.

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain described in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 955(b)) in such foreign corporation. Paragraph (1) shall apply to such taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (b) of section 902(c)(2) is amended—

(i) in subsection (a), in clause (i), by striking "qualified group" and inserting "sixth tier foreign corporation";

(ii) in subparagraph (B), in clause (i), by striking "WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION'S OUTSTANDING 'WHERE FOREIGN CORPORATION FIRST QUALIFIES'".

(B) Paragraph (3) of section 902(c) is amended by striking "ownership" each place it appears.

(c) TREATMENT OF DOMESTIC CORPORATION.—

(1) IN GENERAL.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

"(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in subparagraph (B), the amount so included shall be divided by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B)).

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of such corporations beginning after the date of the enactment of this Act.

"(A) special rule.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 904(d)(3)(B) of such Code which could not have been taken into account under such section but for such transaction.

SEC. 11489. REPEAL OF INCLUSION OF CERTAIN EARNINGS IN EXCESS PASSIVE ASSETS.

(a) general rule.—

(1) rePEAL OF INCLUSION.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking subparagraph (C), by striking " " and at the end of subparagraph (B) and inserting "" and at the end of subparagraph (A), and by striking ""(B) any other foreign corporation if—

(A) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

(B) the average referred to in section 966A (relating to earnings invested in excess passive assets) is repealed.

(b) conforming amendments.—

(1) Paragraph (1) of section 956(b) is amended to read as follows:

"(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—

(A) the amount (not including a deficit) referred to in section 961(a)(1), and

(B) the amount referred to in section 961(a)(2), but reduced by distributions made during the taxable year.

(2) Paragraph (2) of section 956(b) is amended to read as follows:

"(2) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

"(A) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation,

"(B) the average referred to in subsection (a)(1)(A) for such taxable year shall be determined by only taking into account quarters ending on or before the date of the liquidation, reorganization, or similar transaction described in clause (i) or (ii) of section 958(a) (relating to deemed taxes increased in case of deemed liquidation),

"(C) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.

"(3) Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end the following new clause:

"(v) The elections made by this section shall apply to taxable years of foreign corporations beginning after September 30, 1995, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.

CHAPTER 5—OTHER INCOME TAX PROVISIONS

Subchapter A—Provisions Relating to S Corporations

SEC. 11501. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS.

Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking "35 shareholders" and inserting "75 shareholders".

SEC. 11502. ELECTING SMALL BUSINESS TRUSTS.

(a) general rule.—

Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:

"(v) An electing small business trust." (b) current beneficiaries treated as shareholders.—

Subparagraph (B) of section 1361(c)(2) is amended by adding at the end the following new clause:

"(v) Electing small business trust."
(ii) no interest in such trust was acquired by purchase, and
(iii) an election under this subsection applies to such trust.

[601] (B) CERTAIN TRUSTS NOT ELIGIBLE.—The term 'electing small business trust' shall not in-clude—
(i) any qualified subchapter S trust (as defined in subsection (d)(1)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and
(ii) any trust exempt from tax under subsection

(C) PURCHASE.—For purposes of subparagraph (A), the term 'purchase' means any ac-quisition if the basis of the property acquired is determined under section 1012.

(2) POTENTIAL CURRENT BENEFICIARY.—For purposes of this section, the term 'potential current beneficiary' means, with respect to any pe-riod, any person who at any time during such period is entitled to, or at the discretion of any person may receive, a distribution from the prin-cipal or income of the trust. If a trust does not include any person who first met the require-ments of the preceding sentence during the 60-day period ending on the date of such disposi-tion.

(3) ELECTION.—An election under this sub-section shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the con-sent of the Secretary.

(4) CROSS REFERENCE.—

For special treatment of electing small business trusts, see section 641(d).

(d) TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end the following new paragraph:

(1) In General.—For purposes of this chapter—

(A) the portion of any electing small business trust which consists of stock in 1 or more S cor-porations, then, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the require-ments of the preceding sentence during the 60-day period ending on the date of such disposi-tion.

(2) Special Rules for Taxation of Electing Small Business Trusts.—

(1) In General.—For purposes of this chapter—

(A) the portion of any electing small business trust which consists of stock in 1 or more S cor-porations shall be treated as a separate trust, and

(B) the amount of the tax imposed by this chapter on such separate trust shall be deter-mined by using the highest rate of tax applicable to such trust during the period specified by the Secretary.

(2) Modifications.—For purposes of para-graph (1), the modifications of this paragraph are the following:

(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

(B) The amount under section 55(d) shall be zero.

(C) The only items of income, loss, deduc-tion, or credit to be taken into account are the follow-ing:

(i) The items required to be taken into ac-count under section 1366.

(ii) Any gain or loss from the disposition of stock in an S corporation.

(iii) To the extent provided in regulations, State or local income taxes or administrative ex-penses to the extent allocable to items described in clauses (i) and (ii).

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be ap-portioned for purposes of determining the following:

(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. As provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

(4) Treatment of Unused Deductions Where Termination of Separate Trust.—If a portion of an electing small business trust ceases to be treated as a separate trust under para-graph (3), any unused deduction determined under section 1362(h) shall be taken into account by the entire trust.

(5) Electing Small Business Trust.—For purposes of this subsection, the term 'electing small business trust' has the meaning given such term by section 1361(e).

(e) Technical Amendment.—(Paragraph (1) of section 1366(a) is amended by inserting "or," of a trust or estate which terminates," after 'who dies'.

SEC. 11503. EXPANSION OF POST-DEATH QUALI-FICATION FOR CERTAIN TRUSTS.

Subparagraph (A) of section 1361(c)(2) (relat-ing to certain trusts permitted as shareholders) is amended—

(1) by striking "60-day period" each place it appears in clauses (ii) and (iii) and inserting "2-year period" in lieu thereof;

(2) by striking the last sentence in clause (ii).

SEC. 11504. FINANCIAL INSTITUTIONS PERMIT-TED TO HOLD SAFE HARBOR HTS.

Clause (iii) of section 1361(c)(5)(B) (defining straight debt) is amended by striking "or a trust described in paragraph (2)" and inserting "a trust described in paragraph (2), or a person which is actively and regularly engaged in the business of lending money."

SEC. 11505. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS.

(a) General Rule.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(1) Inadvertent Invalid Elections or Terminations.—If—

"(i) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) or failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (a), or

"(2) the Secretary determines that the cir-cumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small busi-ness corporation, or

"(B) to acquire the required shareholder consents, and

"(C) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corpora-tion as an S corporation) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances result-ing in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary.

(b) Determination Defined.—Subsection (b) of section 1362 is amended by adding at the end the following new paragraph:

"(5) Authority To Treat Late Elections as Timely.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election, the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply).

(c) Effective Date.—The amendments made by subsection (a) and (b) shall apply with re spect to elections for taxable years beginning before November 20, 1995.

SEC. 11506. AGREEMENT TO TERMINATE YEAR.

Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:—

(2) Election to Terminate Year.

"(A) in General.—If any shareholder termi-nates the shareholder's interest in the corpora-tion during the taxable year and all affected shareholders and the corporation agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termina-tion.

"(B) Affected Shareholders.—For purposes of paragraph (A), the term 'affected share-holders' means the shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such share-transfered shares to the corporation, the term 'af-fected shareholders' shall include all persons who are shareholders during the taxable year.''

SEC. 11507. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) in General.—(Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking subparagraph (A) (by redesignating subparagraph (B) as subparagraph (A), and by in-serting after subparagraph (A) the following new subparagraph:

"(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2), and)

(b) Determination Defined.—(Paragraph (2) of section 1377(b) is amended by striking sub-paragraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by in-serting after subparagraph (A) the following new subparagraph:

"(A) a determination as described in section 1368(e)(2), or

(c) Repeal of Special Audit Provisions for Subchapter S Items.—

(1) General Rule.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(2) Consistent Treatment Required.—Section 6037 (relating to return of S corporation) is amended by adding at the end the following new subsection:

"(c) Shareholder's Return Must Be Consistent With Corporate Return or Secret ary Notified of Inconsistent Treatment on Shareholder's Return.

"(1) In General.—A shareholder of an S cor-poration shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) Notification of Inconsistent Treat ment.

"(A) in General.—In the case of any sub-chapter S item, if—

"(i) the corporation has filed a return but the shareholder's treatment of this return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(ii) the corporation has not filed a return, and

"(iii) the shareholder files with the Secretary a statement identifying the inconsistency,
paragraph (1) shall not apply to such item.

(8) SHAREHOLDER RECEIVING INCORRECT IN- FORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a qualified S subsidiary if the shareholder—

(ii) demonstrates to the satisfaction of the Secretary that the treatment of the item on the schedule furnished to the shareholder by the corporation, and

(iii) elects to have this paragraph apply with respect to that item.

(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

(A) described in subparagraph (A)(i) of paragraph (2), and

(B) in which the shareholder does not comply with paragraph (2) or (A)(i) of paragraph (2), any adjustment required to make the treatment of the item by such shareholder consistent with the treatment of the item on the corporate return shall be treated as arising out of mathe- matical or clerical errors and assessed according to section 6213(b). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term ‘‘subchapter S item’’ means any item of income of an S corporation to the extent that it is described on the schedule furnished by the Secretary under paragraph (1) that for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

(5) defective=A ADJUSTMENT FOR DEFECTIVE COM-PLY WITH SECTION.—For addition to tax in the case of a share- holder’s negligence in connection with, or dis- regard of, the requirements of this section, see part I of subchapter A of chapter 68.

(6) CONFORMING AMENDMENTS.—

(A) Section 1366 is amended by striking subsection (g).

(B) Section 1366(a) is amended by striking the end of (a) and inserting the following:

(2) the amount of such corporation’s accumulated earnings and profits (as of the beginning of such taxable year beginning before January 1, 1983, for which such corporation was treated as an S corporation) in excess of such corporation’s accumulated earnings and profits at the time such corporation was treated as an S corporation shall be treated as a passive investment income of the corporation for purposes of this chapter.

(3) A DJUSTMENTS IN CASE OF INHERITED STOCK.—In the case of any distribution of any taxable year, the adjusted basis of the stock shall be determined with respect to the adjustment provided in paragraph (1) of section 1367(a) for the taxable year.

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—

Paragraph (1) of section 1368 relating to accumulated adjustments accounts is amended by adding at the end the following new paragraph:

(3) cumulative=THE CUMULATIVE CUMULATED ADJUSTMENTS ACCOUNT IS DEEMED TO INCLUDE DIVIDENDS FROM SUCH C CORPORATION TO THE EXTENT SUCH DIVIDENDS ARE ATTRIBUTABLE TO THE EARNINGS AND PROFITS OF SUCH C CORPORATION DERIVED FROM THE ACTIVE CONDUCT OF A TRADE OR BUSINESS.

(4) CONFORMING AMENDMENTS.—

(a) Section 1361 is amended by striking paragraph (4). Paragraph (2) of section 1354 (defining ineligible corporation) is amended by inserting at the end the following new paragraph:

(B) in which the shareholder does not comply with (A) or (B).

(c) Section 1361(b)(1) is amended by striking paragraph (2) and inserting the following:

(1) a corporation was an electing small business corporation under chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(5) A DDITION TO TAX FOR FAILURE TO COM-PLY WITH SECTION.—(A) Section 1375 is amended by striking subsection (c) and inserting the following:

(1) the Accumulated Adjustments Account

(2) the amount of such corporation’s accumulated earnings and profits (as of the beginning of such taxable year beginning before January 1, 1983, for which such corporation was treated as an S corporation) in excess of such corporation’s accumulated earnings and profits at the time such corporation was treated as an S corporation shall be treated as a passive investment income of the corporation for purposes of this chapter.

(3) A DJUSTMENTS IN CASE OF INHERITED STOCK.—In the case of any distribution of any taxable year, the adjusted basis of the stock shall be determined with respect to the adjustment provided in paragraph (1) of section 1367(a) for the taxable year.

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—

Paragraph (1) of section 1368 relating to accumulated adjustments accounts is amended by adding at the end the following new paragraph:

(3) the cumulative=THE CUMULATIVE CUMULATED ADJUSTMENTS ACCOUNT IS DEEMED TO INCLUDE DIVIDENDS FROM SUCH C CORPORATION TO THE EXTENT SUCH DIVIDENDS ARE ATTRIBUTABLE TO THE EARNINGS AND PROFITS OF SUCH C CORPORATION DERIVED FROM THE ACTIVE CONDUCT OF A TRADE OR BUSINESS.

(c) CONFORMING AMENDMENTS.—

(3) THE CUMULATIVE CUMULATED ADJUSTMENTS ACCOUNT IS DEEMED TO INCLUDE DIVIDENDS FROM SUCH C CORPORATION TO THE EXTENT SUCH DIVIDENDS ARE ATTRIBUTABLE TO THE EARNINGS AND PROFITS OF SUCH C CORPORATION DERIVED FROM THE ACTIVE CONDUCT OF A TRADE OR BUSINESS.
(b) Effective Date.—The amendment made by subsection (a) shall apply in the case of decrees dying after the date of the enactment of this Act.

SEC. 11534. S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERT E DIVIDED FOR SALE BY NONCORPORATE TAXPAYERS.

(a) In General.—Subsection (a) of section 1237 (relating to real property subdivided for sale) is amended by striking “other than a corporation” in the preceding paragraph (1) and inserting “other than a C corporation”.

(b) Conforming Amendment.—Subparagraph (A) of section 1237(a)(2) is amended by inserting “an S corporation” in the place where it includes the taxpayer as a shareholder,” after “controlled by the taxpayer.”

SEC. 11535. EFFECTIVE DATE.

(a) In General.—Except as otherwise provided in this subchapter, the amendments made by this subchapter shall apply to taxable years beginning after December 31, 1995.

(b) Treatment of Certain Elections Under Prior Law.—For purposes of section 1362(c) of the Internal Revenue Code of 1986 (relating to election after termination), any termination under the Internal Revenue Code of 1986 (relating to certain elections under prior law) occurring after the date of the enactment of this Act.

Subchapter B—Repeal of 30-Percent Gross Income Limitation on Regulated Investment Companies

SEC. 11521. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) General Rule.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding “and” at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) Technical Amendments.—

(1) The material following paragraph (3) of section 851(b) (as redesignated by subsection (a)) is amended by—

(A) striking out “paragraphs (2) and (3)” and inserting “paragraph (2)”, and

(B) striking out the last sentence thereof.

(2) Section 851 is amended by striking “subsection (b)(4)” each place it appears (including the heading) and inserting “subsection (b)(3)”.

(3) Subsection (d) of section 851 is amended by striking “subsections (b)(4)” and inserting “subsections (b)(3)”.

(4) Paragraph (3) of section 851(e) is amended by striking “subsection (b)(4)” and inserting “subsection (b)(3)”.

(5) Paragraph (4) of section 851(e) is amended by striking “subsections (b)(4)” and inserting “subsections (b)(3)”.

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(b)(2) is amended—

(A) by striking “851(b)(4)” in subparagraph (A) and inserting “851(b)(3)”, and

(B) by striking “851(b)(4)” and inserting “851(b)(3)(A)(ii)”.

(9) Section 1092(f)(2) is amended by striking “Except for purposes of section 851(b)(3), the” and inserting “Except for purposes of section 851(b)(3),”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subchapter C—Accounting Provisions

SEC. 11551. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) Look-Back Method Not To Apply in Certain Cases.—Subsection (b) of section 460 relaying to percentage of completion method is amended by adding at the end the following new paragraph:

“(6) Election to have look-back method not apply in de minimis cases.—

(1) IN GENERAL.—Except as otherwise provided in this subchapter, the amendments made by this section shall apply to taxable years ending after January 1, 1996, shall not be taken into account.

(2) MODIFICATION OF INTEREST RATE.—(A) In General.—For purposes of paragraphs (2), (3), and (5), and (6) of section 817(h)(2) is amended—

(i) in the case of a contract described in clause (ii), by striking “and” and inserting “or”,

(ii) in the case of a contract described in clause (iii), by striking “or” and inserting “and”,

(iii) by inserting “or” after clause (iv) of subparagraph (A), and

(iv) in the case of a contract described in clause (v) of subparagraph (A), by striking “or” and inserting “and”.

(B) Modification of Percentage to Which Paragraph Applies.—(i) In General.—Subparagraph (C) of section 817(h)(2) is amended by striking “described in paragraph (8)(C)” and inserting “described in paragraph (8)(B)”.

(ii) EFFECTIVE DATE.—The amendments made by this subchapter shall apply to contracts entered into on or after the date of the enactment of this Act.

Subchapter D—Tax-Exempt Bond Provision

SEC. 11561. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPROFIT INVESTMENT TACTICS.

(a) In General.—Subsection (d) of section 134 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

(b) Effective Date.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

Subchapter E—INSURANCE PROVISIONS

SEC. 11571. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) General Rule.—

(1) Paragraph (2) of section 817(d) (defining various contract) is amended by striking “or” at the end of subparagraph (A), by striking “and” at the end of subparagraph (B) and inserting “or”, and by inserting after subparagraph (B) the following new subparagraph:

“(C) for purposes of section 807(c)(6),”.

(2) Paragraph (3) of section 817(d) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “; or”, and by inserting after subparagraph (B) the following new subparagraph:

“(C) in the case of funds held under a contract described in paragraph (2)(B) and the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.”

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11572. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) General Rule.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

“SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

(a) Computation of Reserves.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(3)(A) shall not apply.

(b) Segregated Assets Under Modified Guaranteed Contracts Marked to Market.—

(1) In General.—In the case of any life insurance company, for purposes of this subtitle—

(A) any gain or loss with respect to a segregated asset held by the company which includes such asset as ordinary income or loss, as the case may be.

(B) any segregated asset held by such company which includes such asset as ordinary income or loss, as the case may be.

(ii) such company shall recognize gain or loss as if such asset were sold for its fair market value.
value on the last business day of such taxable year, and

(iii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustments shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

(2) SEGREGATED ASSET.—For purposes of paragraph (1), the term "Segregated asset" means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

(c) Special Rule in Computing Life Insurance Reserves.—For purposes of applying section 81(b)(1)(A) to any modified guaranteed contract, the minimum interest rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

(d) Modified Guaranteed Contract Defined.—For purposes of this section, the term "Modified guaranteed contract" means a contract not described in section 817—

(1) all or part of the amounts received under which a segregated account is an asset held pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

(2) which—

(A) provides for the payment of annuities,

(B) guarantees a benefit amount,

(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or endowment contract,

(3) for which reserves are valued at market for annual statement purposes, and

(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(a)(1)) if only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.

(e) Regulations.—The Secretary may prescribe regulations—

(1) to provide for the treatment of market value fluctuations under sections 72, 7702, 7702A, and 807(e)(1)(B)

(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 807(e)(1)(B), and 807(e)(1)(B), and 807(e)(1)(B), and (B) with respect to contracts calculated annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate, for such a contract, to modify or waive the applicability of section 817(a).

(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) in the contract.

(4) to provide appropriate treatment of transfers of assets to and from the segregated account, the extent as may be necessary or appropriate to carry out the purposes of this section.

(b) Clerical Amendment.—The table of sections for subpart E of part I of subchapter L of chapter 7 of title 26 is amended by inserting the following after the item relating to section 817 following new item: "Sec. 817A. Special rules for modified guaranteed contracts.".

(c) Effective Date.—In general.—The amendments made by this section shall be effective for taxable years beginning after December 31, 1995.

(2) Adjustments.—In the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value fluctuation, a paragraph shall be added to mark segregated assets to market for any taxable year.

(a) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(b) such changes shall be treated as made with the consent of the Secretary, and

(c) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986 shall be taken into account as ordinary income or loss by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.

Subchapter F—Other Provisions

SEC. 11581. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER

(a) General Rule.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) Disposition of entire interest.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or withdrawal) or by reason of a later date which is determined (determined without regard to section 706(e)) after the date of the decedent's death and before the date which is 6 months after the date of the decedent's death, and

(b) Application.—The term "applicable date" means—

(1) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent's death, and

(2) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.

(c) Election.—The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined without regard to extensions) and, once made, shall be irrevocable.

(b) Comparable Treatment Under Generalized Revocable Trust Tax.—Paragraph (3) of section 2652(b) is amended by adding at the end the following new sentence: "Such term shall not include any trust during any period the trust is treated as part of the estate under section 2652(a)."

(c) Clerical Amendment.—The table of sections for subpart A is amended by adding at the end the following new item: "Sec. 646. Certain revocable trusts treated as separate part of estate."

(d) Effective Date.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 11582. CREDIT FOR SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) Reporting Requirement Not Considered.—Subparagraph (A) of section 458(b)(1) (relating to excess employer social security tax) is amended by inserting "benefit equal to" before "whether such tips are reported under section 6053" after "section 3212(1)."

(b) Taxes Paid.—Subsection (d) of section 13443(b) of the Social Security Act of 1993 is amended by inserting ", with respect to services performed before, on, or after such date" after "1993"

(c) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by, and the provisions of, section 13443 of the Revenue Reconciliation Act of 1993.

SEC. 11583. DUE DATE FOR FIRST QUARTER ESTIMATES OF TAX PAYMENTS BY PRIVATE FOUNDATION.

(a) In General.—Paragraph (3) of section 6655(g) is amended by inserting after subparagraph (C) the following new subparagraph: "(cl) The foundation shall be required to make an estimate of income tax due for any taxable year beginning after December 31, 1995.

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

CHAPTER 6—ESTATES AND TRUSTS


SEC. 11601. CERTAIN REVOKEABLE TRUSTS TREATED AS PART OF ESTATE.

(a) In General.—Subpart A of part I of subchapter L of chapter 7 of title 26 is amended by inserting "in respect of estates or trusts" before "a trust" each place it appears.

(b) Conforming Amendment.—Paragraph (2) of section 663(b) is amended by striking "the fiduciary of such trust or the fiduciary of such trust as the case may be" and inserting "the executor of such estate or the fiduciary of such trust"

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 11602. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAXABLE YEAR OF ESTATE.

(a) In General.—Subsection (b) of section 663 (relating to distributions in first 65 days of taxable year of an estate or in the case of a trust) is amended—

(1) by inserting before the last sentence the following new sentence: "Rules similar to the rules of the preceding provisions of this sub-section shall apply to substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates, \( \ldots \) , and

(2) by inserting "or estates" after "trusts" in the last sentence.

(b) Conforming Amendment.—The subsection heading of section 663(c) is amended by inserting "ESTATES OR" before "TRUSTS".

(c) Effective Date.—The amendments made by this section shall apply to distributions in the case of estates or trusts of decedents dying after the date of the enactment of this Act.

SEC. 11604. EXECUTOR OF ESTATE AND BENEFICIARIES TREATED AS RELATED PERSONS FOR DISALLOWANCE OF DEDUCTIONS.

(a) Disallowance of Losses.—Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting "; and" at the end of the following new paragraph:

"(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate, or a taxable year of an estate.

(b) Ordinary Income From Gain From Sale of Depreciable Property.—Subsection (b) of section 1239 is amended by striking the period at the end of paragraph (9) and inserting "; and" at the end of the following new paragraph:

"(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate,"
(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 11605. LIMITATION ON TAXABLE YEAR OF ESTATES.
(a) In General.—Section 645 (relating to taxable year of trusts) is amended to read as follows:

"SEC. 645. TAXABLE YEAR OF ESTATES AND TRUSTS.
(a) Estates.—For purposes of this subtitle, the taxable year of the estate of an estate (other than a foreign estate) shall be the calendar year.

(b) Trusts.—
"(1) In General.—For purposes of this title, the taxable year of any trust shall be the calendar year.

"(2) Exception for trusts exempt from tax and charitable trusts.—Paragraph (1) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1).

(c) Clerical Amendment.—The table of sections for subpart A of part I of subchapter J of chapter 13 is amended by inserting at the end the following new item:

"Sec. 645. Taxable year of estates and trusts."

(d) Effective Date.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 11606. TREATMENT OF FUNERAL TRUSTS.
(a) In General.—Subpart F of part I of subchapter J of chapter 13 is amended by adding at the end the following new section:

"SEC. 684. Treatment of funeral trusts.
(a) In General.—In the case of a qualified funeral trust—
"(1) subparts B, C, D, and E shall not apply, and
"(2) no deduction shall be allowed by section 642(b).

(b) Qualified Funeral Trust.—For purposes of this subsection, the term 'qualified funeral trust' means any trust (other than a foreign trust) if—
"(1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services, or property for the benefit of the decedent; and
"(2) the sole purpose of the trust is to hold, invest, and distribute funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the decedent.

(c) Only beneficiaries of such trust are individuals who have entered into contracts described in paragraph (1) to have such services or property provided at their death.

(d) Only contributions to the trust are contributions by or for the benefit of such beneficiaries.

(e) The trustee elects the application of this subsection, and

(f) the trust would (but for the election described in paragraph (5)) be treated as owned by the beneficiaries under subpart E.

(g) Dollar Limitation on Contributions.
"In General.—The term 'qualified funeral trust' shall not include any trust which accepts aggregate contributions by or for the benefit of an individual in excess of $7,000.

"Related Trusts.—For purposes of paragraph (1), all trusts having trustees who are related persons shall be treated as 1 trust. For purposes of the preceding sentence, persons are related if—
"(A) the relationship between such persons would result in the disallowance of losses under section 267 or 707(b), or
"(B) the trust is treated as a single employer under subsection (a) or (b) of section 52, or

(h) Inclusions of Certain Property in Gross Estates of Decedents Dying After 1996.
"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death.

"(i) Inclusion of Gift Tax on Gifts Made During 3 Years Before Decedent's Death.
"The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(j) Other Rules Relating to Transfers Within 3 Years of Death.
"(1) In General.—For purposes of—
"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),
"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to liens for taxes), the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) Coordination with Section 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) Marital and Small Transfers.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(b)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) Exception.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) Treatment of Certain Transfers From Related Trusts.—For purposes of this section and section 2038, any transfer from any portion of a trust during any period that such portion was treated under section 2076 as owned by the decedent in his will (but not under section 2035) to the decedent (or his surviving spouse) by the grantor (determined without regard to section 672(e)) shall be treated as a transfer made directly by the decedent.

(b) Clerical Amendment.—The table of sections for part III of subchapter A of chapter 13 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(c) Effective Date.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 11613. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.
(a) General Rule.—
"(1) In General.—Section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end the following new clause:

"In General.—The term 'qualified terminable interest property' shall not include any interest in property (other than a security) which would have been included in the gross estate of the decedent on the date of death if the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse.

(b) Gift Tax.—Paragraph (1) of section 2523(f) is amended by striking "and (iv)" and inserting "(iv) and (vi)."
(b) Clarification of Subsequent Inclusions.—Section 2044 is amended by adding at the end the following new subsection:

"(d) Clarification of Inclusion of Certain Income.—Notwithstanding any provision of law including the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent’s death if such income is not otherwise included in the decedent’s gross estate.

(c) Effective Date.—

(1) In General.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

(2) Application of Section 2044 to Transfers Before Date of Enactment.—In the case of the estate of any decedent dying before the date of the enactment of this Act, if there was a transfer of property on or before such date:

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent; and

(B) such property shall be so included if such a deduction was allowed.

SEC. 13613. TRANSCATIONAL RULE UNDER SECTION 2056A.

(a) General Rule.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if such instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) Clarification of Subsequent Inclusions.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Internal Revenue Code of 1986.

SEC. 13615. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) General Rule.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) Modification of Election and Agreement to Be Permitted.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but

(A) the notice of election, as filed, does not contain all required information, or

(B) signatures are missing or other persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information, the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures.

(c) Effective Date.—The amendment made by subsection (a) shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 13616. GIFTS MAY NOT BE REVALED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS.

(a) In General.—Section 2031 (relating to imposition and rate of estate tax) is amended by adding after subsection (a) the following new subsection:

"(f) Valuation of Gifts.—If—

(1) the time has expired within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b) (relating to certain transfers treated as disclaimers)) is amended by inserting "(or an undivided portion of such interest)" after "entire interest in the property’’.

(b) Retention of Interest by Decedent’s Spouse Permitted in Transfer-Type Disclaimers.—Paragraph (3) of section 2518(c) is amended by adding at the end the following new flush sentence:

"(b) Effective Date.—The amendments made by this section shall apply to transfers creating an interest in the person disclaiming, and disclaimers, made after the date of the enactment of this Act.

SEC. 13618. CLARIFICATION OF TREATMENT OF SURVIVOR ANNUITIES UNDER QUALIFIED TERMINABLE INTEREST RULES.

(a) In General.—Subparagraph (C) of section 2056b(c)(7) is amended by inserting "(or, in the case of a trust, an interest in a trust under the community property laws of a State, included in the gross estate of the decedent under section 2033)’’ after "section 2639.’’

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 13619. TREATMENT UNDER QUALIFIED DOMESTIC TRUST RULES OF FORMS OF OWNERSHIP WHICH ARE NOT TRUSTS.

(a) In General.—Subsection (c) of section 2056a (defining qualified domestic trust) is amended by adding at the end the following new paragraph:

"(3) Qualified Domestic Trustes.—The term ‘trust’ includes other arrangements which have substantially the same effect as a trust.

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.


SEC. 13631. TAXABLE TERMINATION NOT TO INCLUDE DIRECT SKIPS.

(a) In General.—Paragraph (1) of section 2621(a) (defining taxable termination) is amended by adding at the end the following new flush sentence:

"Such term shall not include a direct skip.’’

(b) Effective Date.—The amendment made by subsection (a) shall apply to generation-skipping transfers (as defined in section 2611 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

CHAPTER 7—EXCISE TAX SIMPLIFICATION

Subchapter A—Provisions Related to Distilled Spirits

SEC. 13641. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) In General.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax’’ and inserting "on which tax has been determined or paid’’.

(b) Effective Date.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

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SEC. 11642. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

SEC. 11643. REFUND OF TAX ON WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

SECTION 11651. CONSOLIDATION OF TAXES ON AVIATION GASOLINE.

SEC. 11653. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.
CHAPTER B—ADMINISTRATIVE PROVISION

SEC. 1167L. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) General Rule.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:

"(iii) Exception for Letters or Notices Involving Small Amounts.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed assessment set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax)."

(b) Effective Date.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1995.

Subtitle K—Miscellaneous Provisions

SEC. 1170L. TREATMENT OF STORAGE OF PRODUCT SAMPLES.

(a) In General.—Paragraph (2) of section 208A(c) is amended by striking "inventory" and inserting "inventory or product samples".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 11702. ADJUSTMENT OF DEATH BENEFIT ELIGIBILITY CRITERIA FOR CERTAIN CATEGORIES OF DEATH BENEFICIARIES.

(a) General Rule.—Subparagraph (C)(ii) of section 7702(e)(2) (relating to limited increases in death benefit) is amended by adding at the end the following new paragraph:

"(c) INFLATION ADJUSTMENTS.—Section 7702(e) (relating to computational rules) is amended by adding after the second full sentence the following new paragraph:

"(3) The amendment made by this section shall take effect on January 1, 1996.

SEC. 11703. ORGANIZATIONS SUBJECT TO SEC.

(a) In General.—Subsection (d)(5)(B) of section 11703(o)(1)(B) is amended by striking "$2,000" and inserting "$10,000".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after October 13, 1995.
under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to the country designated as a beneficiary developing country if, after such designation, the President determines that the country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development.

(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

(3) whether or not other major developed countries are extending generalized preferential tariff reductions to such country;

(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic credits of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

(5) the extent to which such country is providing adequate and effective protection of intellectual property rights;

(6) the extent to which such country has taken action—

(A) to reduce trade distorting investment practices and policies including export performance requirements; and

(B) to reduce or eliminate barriers to trade in services; and

(7) whether or not such country has taken action or is taking steps toward workers in that country (including any designated zone in that country) internationally recognized worker rights.

(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

(I) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (b) of this section.

(II) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that the country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development.

2. Designation of Eligible Articles.—

SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

(a) ELIGIBLE ARTICLES.—

(1) DESIGNATION.—

(A) IN GENERAL.—Except as provided in subsection (b), the President may designate as eligible articles under this title and treated as the growth, product, or manufacture of beneficiary developing countries for purposes of this title for any period during which the President determines that as the result of import-sensitive articles:

(B) Must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country if the President determines that as the result of import-sensitive articles:

(i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(iii) the cost or the materials produced by the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 501(2), plus the value of additional processing or other services performed in such beneficiary developing country or such member countries, is not less than 50 percent of the appraised value of such article at the time it is entered;

(iv) simple combining or packaging operations,

(v) asia treated with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(vi) the cost or the materials produced by the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 501(2), plus the value of additional processing or other services performed in such beneficiary developing country or such member countries, is not less than 50 percent of the appraised value of such article at the time it is entered;

(vii) simple combining or packaging operations,

(viii) the cost or the materials produced by the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 501(2), plus the value of additional processing or other services performed in such beneficiary developing country or such member countries, is not less than 50 percent of the appraised value of such article at the time it is entered;

(viii) simple combining or packaging operations,

(ix) the cost or the materials produced by the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 501(2), plus the value of additional processing or other services performed in such beneficiary developing country or such member countries, is not less than 50 percent of the appraised value of such article at the time it is entered;

(x) simple combining or packaging operations,

(xi) the cost or the materials produced by the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 501(2), plus the value of additional processing or other services performed in such beneficiary developing country or such member countries, is not less than 50 percent of the appraised value of such article at the time it is entered;

(xii) simple combining or packaging operations,

(xiii) the cost or the materials produced by the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 501(2), plus the value of additional processing or other services performed in such beneficiary developing country or such member countries, is not less than 50 percent of the appraised value of such article at the time it is entered;
shall be eligible for duty-free treatment under this title.

"(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title, with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

"(2) Basis for Withdrawal of Duty-Free Treatment.—

"(I) in general.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

"(A) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

"(B) an applicable amount equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year, the President—

"(i) in the case of a calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus 5,000,000, or

"(ii) in the case of a calendar year beginning after June 1, 1995—

"(A) the right of association;

"(B) an annual adjustment of applicable amount. —For purposes of applying clause (ii), the applicable amount is—

"(I) for 1996, $75,000,000, and

"(II) for a calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

"(C) Redesignations.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to an eligible article if imports of such article from such country did not exceed the limitation in subparagraph (A) during the preceding calendar year.

"(D) Articles Not Produced in the United States Excluded.—Subparagraph (A)(i)(II) shall not apply to any least-developed beneficiary developing country.

"(E) Articles Not Produced in the United States Excluded.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

"(F) De minimis waivers.—

"(i) in general.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

"(ii) Applicable amount. —For purposes applying clause (i), the applicable amount is—

"(I) for calendar year 1995, $13,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

"(d) Waiver of Competitive Need Limitation.—

"(i) in general.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such country, the President determines that—

"(A) the country is a beneficiary developing country.

"(B) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(C) the extent to which such country provides adequate and effective protection of intellectual property rights.

"(ii) Other bases for waiver.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—

"(A) the country is a beneficiary developing country,

"(B) there is a treaty or agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or place unreasonable or unjustifiable barriers to, United States commerce, and

"(D) may be considered for designation as eligible articles for purposes of this title.

"(E) Articles Not Produced in the United States Excluded.—Subsection (A)(i)(II) shall not apply with respect to any article if a like or directly competitive article was not produced in the United States on January 1, 1995.

"(F) De minimis waivers.—

"(i) in general.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

"(ii) Applicable amount. —For purposes applying clause (i), the applicable amount is—

"(I) for calendar year 1995, $13,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

"(d) Waiver of Competitive Need Limitation.—

"(i) in general.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such article, the President determines that—

"(A) the country is a member of any such association, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

"(C) Redesignations.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to an eligible article if imports of such article from such country did not exceed the limitation in subparagraph (A) during the preceding calendar year.

"(E) Articles Not Produced in the United States Excluded.—Subparagraph (A)(i)(II) shall not apply with respect to any least-developed beneficiary developing country.

"(F) De minimis waivers.—

"(i) in general.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

"(ii) Applicable amount. —For purposes applying clause (i), the applicable amount is—

"(I) for calendar year 1995, $13,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

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"(i) in general.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such article, the President determines that—

"(A) the country is a member of any such association, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

"(C) Redesignations.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to an eligible article if imports of such article from such country did not exceed the limitation in subparagraph (A) during the preceding calendar year.

"(E) Articles Not Produced in the United States Excluded.—Subparagraph (A)(i)(II) shall not apply with respect to any least-developed beneficiary developing country.

"(F) De minimis waivers.—

"(i) in general.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

"(ii) Applicable amount. —For purposes applying clause (i), the applicable amount is—

"(I) for calendar year 1995, $13,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

"(d) Waiver of Competitive Need Limitation.—

"(i) in general.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such article, the President determines that—

"(A) the country is a member of any such association, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

"(C) Redesignations.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to an eligible article if imports of such article from such country did not exceed the limitation in subparagraph (A) during the preceding calendar year.

"(E) Articles Not Produced in the United States Excluded.—Subparagraph (A)(i)(II) shall not apply with respect to any least-developed beneficiary developing country.

"(F) De minimis waivers.—

"(i) in general.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

"(ii) Applicable amount. —For purposes applying clause (i), the applicable amount is—

"(I) for calendar year 1995, $13,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.
developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2)."

(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES"

"Sec. 501. Authority to extend preferences.
Sec. 502. Designation of beneficiary developing countries.
Sec. 503. Designation of eligible articles.
Sec. 504. Review and reports to Congress.
Sec. 505. Date of termination.
Sec. 506. Agricultural exports of beneficiary developing countries.
Sec. 507. Definitions.".

SEC. 11803. RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND REQUISITIONS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (b), the entry—
(1) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, and
(2) that was made after July 31, 1995, and before the date of the enactment of this Act shall be liquidated or reliquidated as free of any duty.
(b) REQUEST.—Liquidation or reliquidation may be made upon request, and such request is to be treated as a request for liquidation of an entry only if a request therefor is filed with the Customs Service—
(1) to locate the entry; or
(2) to reconstruct the entry if it cannot be located.

SEC. 11804. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—
(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—
(A) in paragraph (1), by striking "(19 U.S.C. 2463(a), 2464(c)(3))" and inserting "(as in effect on July 31, 1995)"; and
(B) in paragraph (2), by striking "(19 U.S.C. 2464(c)(1))" and inserting the following: "(as in effect on July 31, 1995)".
(2) Section 205(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".
(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".
(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking "sections 503(b) and 504(c)" and inserting "sections (a), (c), and (d) of section 503.".
(6) Section 131 of the Uruguay Round Agreements Act (19 U.S.C. 3311) is amended in subsections (a) and (b)(1) by striking "502(a)(4)" and inserting "507(4)".

(b) OTHER LAWS.—
(1) Section 871(h)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "within the meaning of section 502" and inserting "under title V".
(2) Section 2208 of the Export Enhancement Act of 1988 (15 U.S.C. 4711(h)) is amended by striking "502(a)(4)" and inserting "507(4)".

(3) Section 231(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191(a)) is amended—
(A) in paragraph (1) by striking "502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))" and inserting "507(4) of the Trade Act of 1974";
(B) in paragraph (2) by striking "505(c) of the Trade Act of 1974 (19 U.S.C. 2463(c))" and inserting "507(4) of the Trade Act of 1974"; and
(C) in paragraph (4) by striking "502(a)(4)" and inserting "507(4)".

(4) Section 1621(a)(1) of the International Financial Institutions Act (22 U.S.C. 2620-4p(a)(1)) is amended by striking "502(a)(4)" and inserting "507(4)".

(5) Section 1038 of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended in subsections (a)(1)(F)(v) and (n)(1)(C) by striking "503(d) of the Trade Act of 1974 (19 U.S.C. 2463(c))" and inserting "503(d)(3) of the Trade Act of 1974".

SUBTITLE M—INCREASE IN PUBLIC DEBT LIMIT

SEC. 12001. SHORT TITLE.

Subtitle M through K of title V, United States Code, is amended by striking the dollar amount contained in the first sentence and inserting "$5,500,000,000,000" and by striking the second sentence (if any).

TITLE XII—TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION; ASSET SALES; WELFARE; AND OTHER PROVISIONS

SEC. 12002. TABLE OF CONTENTS.

(a) Table of contents of subtitles A through M of title XII is as follows:

Sec. 12100. References to the Social Security Act.
Sec. 12101. Block grants to States.
Sec. 12102. Denial of SSI benefits for 10 years to Federal employees.
Sec. 12103. Conforming amendments to the Social Security Act.
Sec. 12104. Conforming amendments to the Food Stamp Act of 1977 and related provisions.
Sec. 12105. Conforming amendments to other provisions.
Sec. 12106. Effective date; transition rule.
Sec. 12107. Supplemental Security Income.
Sec. 12108. Reference to Social Security Act.

CHAPTER 1—ELIGIBILITY RESTRICTIONS

Sec. 12201. Denial of supplemental security income benefits by reason of disability to individuals and alcoholic.
Sec. 12202. Denial ofSSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
Sec. 12203. Denial ofSSI benefits for fugitive felons and probation and parole violators.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

Sec. 12211. Definition and eligibility rules.
Sec. 12212. Eligibility redeterminations and continuing disability reviews.
Sec. 12213. Additional accountability requirements.
Sec. 12214. Reduction in cash benefits payable to institutionalized individuals whose medical costs are covered by private insurance.
Sec. 12215. Regulations.

Subtitle C—Child Support

Sec. 12300. Reference to Social Security Act.

CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

Sec. 12301. State obligation to provide child support enforcement services.
Sec. 12302. Distribution of child support collections.
Sec. 12303. Privacy safeguards.

CHAPTER 2—LOCATE AND CASE TRACKING

Sec. 12311. State case registry.
Sec. 12312. Collection and distribution of support payments.
Sec. 12313. State directory of new hires.
Sec. 12314. Amendment concerning income withholding.
Sec. 12315. Locator information from interstate networks.
Sec. 12316. Expansion of the Federal parent locator service.
Sec. 12317. Collection and use of social security numbers for use in child support enforcement.

CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES

Sec. 12321. Adoption of uniform State laws.
Sec. 12322. Improvements to full faith and credit for child support orders.
Sec. 12323. Administrative enforcement in interstate cases.
Sec. 12324. Use of forms in interstate enforcement.
Sec. 12325. State laws providing expedited procedures.

CHAPTER 4—Paternity Establishment

Sec. 12331. State laws concerning paternity establishment.
Sec. 12332. Outreach for voluntary paternity establishment.
Sec. 12333. Cooperation by applicants for and recipients of temporary family assistance.

CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING

Sec. 12341. Performance-based incentives and penalties.
Sec. 12342. Federal and State reviews and audits.
Sec. 12343. Required reporting procedures.
Sec. 12344. Automated data processing requirements.
Sec. 12345. Technical assistance.
Sec. 12346. Reports and data collection by the Secretary.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

Sec. 12351. Simplified process for review and judgment of child support orders.
Sec. 12352. Furnishing consumer reports for certain purposes relating to child support.
Sec. 12353. Nonliability for financial institutions providing financial records to State child support enforcement agencies in child support cases.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

Sec. 12361. Internal Revenue Service collection of arrears.
Sec. 12362. Authority to collect support from Federal employees.
Sec. 12363. Enforcement of child support obligations of members of the Armed Forces.
Sec. 12364. Voiding of fraudulent transfers.
Sec. 12365. Work requirement for persons owing past-due child support.
Sec. 12366. Definition of support order.
Sec. 12367. Reporting arrearages to credit bureaus.
Sec. 12368. Liens.
Sec. 12369. State law authorizing suspension of professional, occupational, or commercial licenses.
Sec. 12370. International child support enforcement.
Sec. 12371. Financial institution data matches.
Sec. 12372. Enforcement of orders against paternal or maternal grandparents in cases of minor parents.

CHAPTER 8—MEDICAL SUPPORT

Sec. 12376. Correction to EPCA definition of medical support order.
Sec. 12377. Enforcement of orders for health care coverage.
State intends to treat such families under the program.

1. The document shall indicate whether the State intends to provide assistance under the program to Indian individuals or families.

2. Certification that the State will operate a child protection program.

3. Certification of the Administration of the Program.

4. Special Rule for Fiscal Year 1996.

5. Public Availability of State Plan Summary.

6. Grants to State.

(1) Family Assistance Grant.

(A) In general.

(i) Each eligible State shall be entitled to receive from the Secretary, for each fiscal year, 1996, 1997, 1998, 1999, and 2000, a grant in an amount equal to the State family assistance grant.

(ii) The amount of the State family assistance grant shall be determined by the Secretary, taking into consideration the number of individuals, according to the 1990 decennial census, who were residents of the States under part A (as in effect during fiscal year 1994) for fiscal year 1994; and

(iii) The amount of the State family assistance grant shall be determined by the Secretary, taking into consideration the number of individuals, according to the 1990 decennial census, who were residents of any State and whose income was below the poverty line.

(B) State Family Assistance Grant Defined.

As used in this part, the term 'State family assistance grant' means the greatest of:

1. $800,000,000.

2. The amount (if any) required to be paid to the State under part A (as in effect during fiscal year 1994) for fiscal year 1994; or

3. The amount of the Federal medical assistance percentage for the fiscal year 1995.

The amount of the State family assistance grant shall be determined by the Secretary, taking into consideration the number of individuals, according to the 1990 decennial census, who were residents of the States under part A (as in effect during fiscal year 1994) for fiscal year 1994; and

(C) Grants Reduced Pro Rata if Insufficient Appropriations.

If the amount appropriated pursuant to this paragraph for a fiscal year is less than the total amount of payments otherwise required to be made under this paragraph for the fiscal year, then the amount otherwise payable to each qualifying State for the fiscal year under this paragraph shall be reduced by a percentage equal to the amount so appropriated divided into such total amount.

(D) Contingency Fund.

(1) Establishment.

There is hereby established in the Treasury of the United States a fund which shall be known as the 'Contingency Fund for State Welfare Programs' (in this section referred to as the 'Fund').

(2) Deposits into Fund.

Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, and 2000 such sums as are necessary for payments under this paragraph, in a total amount not to exceed $800,000,000.

(E) Grants Reduced Pro Rata if Insufficient Appropriations.

If the amount appropriated pursuant to this paragraph for a fiscal year is less than the total amount of payments otherwise required to be made under this paragraph for the fiscal year, then the amount otherwise payable to each qualifying State for the fiscal year under this paragraph shall be reduced by a percentage equal to the amount so appropriated divided into such total amount.

(2) Deposits into Fund.

Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, and 2000 such sums as are necessary for payment to the Fund in a total amount not to exceed $800,000,000.

(3) Computation of Grant.

(A) In general.

Subject to subparagraph (B), the Secretary of the Treasury shall pay from the State family assistance grant to the States in an amount equal to the Federal medical assistance percentage for the fiscal year as defined.
in section 1905(b), as in effect on the date of the enactment of this part) of so much of the expenditures by the State in the fiscal year under the State program funded under this part as exceed the payment by the State of amounts for the fiscal year from the Fund; (C) a State may reserve an amount equal to 20 percent of the State family assistance grant for the fiscal year.

(C) METHOD OF RECONCILIATION.—If, at the end of any fiscal year, the Secretary finds that a State to which amounts from the Fund were paid in the fiscal year did not meet the maintenance of effort requirement under paragraph (B) of this subsection, the Secretary shall reduce the grant payable to the State under section 411(a)(1) for the immediately succeeding fiscal year by such amounts.

ELIGIBILITY DEFINED.—For purposes of subparagraph (A), an individual has been battered or subjected to extreme cruelty if such individual has been subjected to—

(ii) physical acts that resulted in, or threatened to result in, physical injury to the individual;

(iii) sexual abuse;

(iii) sexual activity involving a dependent child;

(iv) being forced as the caretaker relative of a dependent child to engage in nonsensuous sexual acts;

(v) threats of, or attempts at, physical or sexual abuse;

(vi) mental abuse; or

(vii) neglect or deprivation of medical care.

4. RULE OF INTERPRETATION.—Paragraph (1) shall not be interpreted to require any State to provide assistance to any individual for any period of time that exceeds 110 percent of the amount of the grant made under the State program funded under this part.

SEC. 403. USE OF GRANTS.

(a) GENERAL RULES.—Subject to this part, a State to which a grant is made under section 402 may use the grant—

(1) in any manner that is reasonably calculated to increase the flexibility of States in operating a program designed to—

(A) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

(B) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

(C) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

(D) encourage the formation and maintenance of two-parent families; and

(2) in any manner that the State was authorized to use amounts received under part A or F of this title, as such parts were in effect on September 30, 1995.

(b) LIMITATION ON USE OF GRANT FOR ADMINISTRATIVE PURPOSES.—

(1) LIMITATION.—A State to which a grant is made under section 402 may use not more than 15 percent of the grant for administrative purposes.

(2) EXCEPTION.—Paragraph (1) shall not apply to the use of a grant for information technology and computerization needed for tracking or monitoring required by or under this part.

(c) AUTHORITY TO USE PORTION OF GRANT FOR OTHER PURPOSES.—

(1) IN GENERAL.—A State may use no more than 30 percent of the amount of the grant made to the State under section 402 for a fiscal year to carry out a program pursuant to any or all of the following provisions of law:

(A) Part B of this title.

(B) Title XX of this Act.

(C) The Child Care and Development Block Grant Act of 1990.

(2) APPLICABLE RULES.—Any amount paid to the State under this part that is used to carry out a program pursuant to a provision of law specified in paragraph (1) shall not be subject to the requirements of this part, but shall be subject to the requirements that apply to Federal funds provided directly under the provision of law to carry out the program.

(d) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve an amount equal to 15 percent of the amount of the grant made to the State under section 402 for a fiscal year for any purpose of providing, without fiscal year limitation, assistance under the State program funded under this part.

(e) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under section 402 may use the grant to make payments (or provide job placement services to individuals) for employment placement services to individuals who receive assistance under the State program funded under this part.

(f) IMPLEMENTATION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—A State to which a grant is made under section 402 is encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose.

SEC. 404. ADMINISTRATIVE PROVISIONS.

(a) QUARTERLY.—The Secretary shall provide each grant payable to a State under section 402 in quarterly installments.

(b) NOTIFICATION.—Not later than 3 months before the payment of any such quarterly installment to a State, the Secretary shall notify the State of the amount of any reduction determined under section 411(a)(1)(B) with respect to the State.

(c) COMPUTATION AND CERTIFICATION OF PAYMENTS TO STATES.—

(1) COMPUTATION.—The Secretary shall estimate the amount to be paid to each eligible State for each quarter under this part, such estimate to be based on a report filed by the State containing an estimate by the State of the total sum to be expended by the State in the quarter under the State program funded under this part and such other information as the Secretary may find necessary.

(2) CERTIFICATION.—The Secretary of Health and Human Services shall certify to the Secretary of the Treasury the amount estimated by the Secretary under paragraph (1) with respect to a State.

SEC. 406. MANDATORY WORK REQUIREMENTS.

(a) LOAN AUTHORITY.—

(1) IN GENERAL.—A State may use a loan made under section 411 for the purpose of providing, without fiscal year limitation, assistance under the program to Indian families that have moved from the service area of an Indian tribe with a tribal family assistance plan approved under section 411.

(b) LIMITATION ON TOTAL AMOUNT OF LOANS TO A STATE.—The cumulative dollar amount of all loans made to a State under this section during fiscal years 1996 through 2000 shall not exceed 10 percent of the State family assistance grant.

(c) LIMITATION ON TOTAL AMOUNT OF OUTSTANDING LOANS.—The total dollar amount of loans outstanding under this section may not exceed $1,700,000.

(d) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as may be necessary for the cost of loans under this section.

SEC. 406A. MANDATORY WORK REQUIREMENTS.

(a) PARTICIPATION RATE REQUIREMENTS.

(b) ALL FAMILIES.—A State to which a grant is made under section 402 for a fiscal year shall
achieve the minimum participation rate specified in the following table for the fiscal year with respect to all families receiving assistance under the State program funded under this part:

<table>
<thead>
<tr>
<th>The minimum participation rates for the fiscal year:</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the fiscal year is:</td>
</tr>
<tr>
<td>------------------------</td>
</tr>
<tr>
<td>January 1 to December 31</td>
</tr>
</tbody>
</table>

The minimum participation rate shall not be reduced to the extent that the Secretary determines that the reduction in the number of families receiving assistance is required by Federal law.

*Eligibility Changes Not Counted.*—The regulations described in subparagraph (A) shall not take into account families that are divorced from a State program funded under this part as a result of differences in eligibility criteria under a State program funded under this part and eligibility criteria under such State's plan under the aid to families with dependent children program, as such plan was in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Such regulations shall place the burden on the Secretary to prove that such families were diverted as a direct result of differences in such eligibility criteria.

*State Option to Include Individuals Receiving Assistance Under a Tribal Family Assistance Plan.*)—For purposes of paragraphs (1)(B) and (2)(B), a State may, at its option, include families receiving assistance under a tribal family assistance plan approved under section 411.

*Average Monthly Rate.*)—For purposes of subsection (a)(1), the participation rate for all families of the State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

*Maintenance Assistance for Noncooperation in Child Support.*)—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State plan in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—

(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State plan funded under this part the share of such assistance attributable to the individual; and

(B) may deny the family any assistance under the State plan.

*No Assistance for Families Without a Minor Child.*)—A State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family unless the family includes—

(A) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

(B) a pregnant individual.

*Reduced Assistance for Family if Adult Refuses to Work.*)—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family if the adult member of the family refuses to engage in work required in accordance with this section.

*Reduced Assistance for Unemployed Minor Child.*)—A State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family if the adult member of the family refuses to engage in work required in accordance with this section.

*Reduced Assistance for Other Reasons.*)—A State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family if the adult member of the family refuses to engage in work required in accordance with this section.

*Reduced Assistance for Determination of Child Support Rights.*)—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—

(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State plan funded under this part the share of such assistance attributable to the individual; and

(B) may deny the family any assistance under the State plan.

*No Assistance for Families Not Assigning Certain Support Rights to the State.*)—

(A) In general.—A State to which a grant is made under section 402 may not require that, as a condition of providing assistance to a family, the individual assigns to the State any rights the family member may have to receive child support from any other person, not exceeding the total

*Calculation of Participation Rate.*)—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for all families of subsection (a)(1), the participation rate for 2-parent families of a State for each month in the fiscal year.

*Maintenance Assistance for Child Support Enforcement.*)—For purposes of section 408(a)(2) but have not been subject to maintenance assistance that are subject in such month to a reduction or termination of assistance pursuant to section 408(a)(2) but have not been subject to such penalty for more than 3 months within the preceding 12-month period (whether or not consecutive).

*Pro Rata Reduction of Participation Rate Due to Caseload Reductions Not Required by Federal Law.*)—(A) In general.—The Secretary shall prescribe regulations for reducing the minimum participation rate otherwise required by this section for a fiscal year by the number of percentage points equal to the number of percentage points (if any) by which—

(i) the number of families receiving assistance under the State plan approved under part A of this title for the fiscal year ending September 30, 1995, exceeds the number of families receiving assistance under the State plan approved under part A of this title for the fiscal year immediately preceding such effective date.

*Failure to Achieve Minimum Participation Rate.*)—(A) In general.—The Secretary shall deduct from the assistance otherwise payable to the family of the recipient the amount by which the participation rate of a State for all families of the State for a fiscal year exceeds the participation rate for all families of the State in the preceding fiscal year.

(B) No Assistance for Families Not Assigning Certain Support Rights to the State.*)—(A) In general.—A State to which a grant is made under section 402 may not require that, as a condition of providing assistance to a family, the individual assigns to the State any rights the family member may have to receive child support from any other person, not exceeding the total

*Maintenance Assistance for Noncooperation in Child Support.*)—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—

(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State plan funded under this part the share of such assistance attributable to the individual; and

(B) may deny the family any assistance under the State plan.

*Reduced Assistance for Families Not Assigning Certain Support Rights to the State.*)—(A) In general.—A State to which a grant is made under section 402 may not require that, as a condition of providing assistance to a family, the individual assigns to the State any rights the family member may have to receive child support from any other person, not exceeding the total

*No Assistance for Families Without a Minor Child.*)—A State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family unless the family includes—

(A) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

(B) a pregnant individual.

*Reduced Assistance for Family if Adult Refuses to Work.*)—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family if the adult member of the family refuses to engage in work required in accordance with this section.

*Reduced Assistance for Unemployed Minor Child.*)—A State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family if the adult member of the family refuses to engage in work required in accordance with this section.

*Reduced Assistance for Other Reasons.*)—A State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family if the adult member of the family refuses to engage in work required in accordance with this section.

*Reduced Assistance for Determination of Child Support Rights.*)—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—

(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State plan funded under this part the share of such assistance attributable to the individual; and

(B) may deny the family any assistance under the State plan.

*No Assistance for Families Not Assigning Certain Support Rights to the State.*)—(A) In general.—A State to which a grant is made under section 402 may not require that, as a condition of providing assistance to a family, the individual assigns to the State any rights the family member may have to receive child support from any other person, not exceeding the total

*Calculation of Participation Rate.*)—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

*Maintenance Assistance for Noncooperation in Child Support.*)—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—

(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State plan funded under this part the share of such assistance attributable to the individual; and

(B) may deny the family any assistance under the State plan.

*No Assistance for Families Without a Minor Child.*)—A State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family unless the family includes—

(A) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

(B) a pregnant individual.

*Reduced Assistance for Family if Adult Refuses to Work.*)—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family if the adult member of the family refuses to engage in work required in accordance with this section.

*Reduced Assistance for Unemployed Minor Child.*)—A State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family if the adult member of the family refuses to engage in work required in accordance with this section.

*Reduced Assistance for Other Reasons.*)—A State to which a grant is made under section 402 may not provide any part of the grant to provide assistance to a family if the adult member of the family refuses to engage in work required in accordance with this section.

*Reduced Assistance for Determination of Child Support Rights.*)—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—

(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State plan funded under this part the share of such assistance attributable to the individual; and

(B) may deny the family any assistance under the State plan.

*No Assistance for Families Not Assigning Certain Support Rights to the State.*)—(A) In general.—A State to which a grant is made under section 402 may not require that, as a condition of providing assistance to a family, the individual assigns to the State any rights the family member may have to receive child support from any other person, not exceeding the total

*Calculation of Participation Rate.*)—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

*Maintenance Assistance for Noncooperation in Child Support.*)—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—

(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State plan funded under this part the share of such assistance attributable to the individual; and

(B) may deny the family any assistance under the State plan.
amount of assistance so provided to the family, which accrues (or have accrued) before the date the family leaves the program, which assignment leaves the program, shall not apply with respect to—

(ii) if the assignment occurs on or after October 1, 2000, any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by September 30, 2000; or

(iii) if the assignment occurs on or after October 1, 2000, any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by the date the family leaves the program.

(8) IN GENERAL.—A State to which a grant is made under section 402 may not require, as a condition of providing assistance to any family under the State program funded under this part, that a member of the family assign to the State under the State program any amounts of assistance so provided to the family, which assignment leaves the program.

(9) SIGNIFICANT PERIOD.—

(A) IN GENERAL.—For purposes of this subsection, the term 'significant period' means the period of not less than 30 and not more than 90 consecutive days or, at the option of the State, such period shall be extended to 120 consecutive days.

(B) DETERMINATION.—In determining the significant period, the State may take into account the length of the period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the assistance the individual is receiving from the State.

(C) EXCEPTIONS.—

(1) IF THE INDIVIDUAL IS IN A PRISON OR JAIL.—If the individual, after conviction, is serving a sentence for a serious crime, the significant period shall begin on the date the individual is released from such sentence.

(2) THE STATE HAS INFORMATION.—If the State has information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(3) THE STATE PLANS TO SEEK PROBATION OR PAROLE.—If the State plans to seek probation or parole for the individual, the significant period shall begin on the date such request is made.

(4) THE STATE HAS NO INFORMATION.—If the State has no information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(5) THE STATE HAS NOT COLLECTED.—If the State has not collected any information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(6) THE STATE PROVES THE INDIVIDUAL SHOULD BE CONSIDERED.—If the State proves the individual should be considered, then the significant period shall begin on the date such information is received by the State.

(7) THE STATE PLANS TO SEEK PROBATION OR PAROLE.—If the State plans to seek probation or parole for the individual, the significant period shall begin on the date such request is made.

(8) THE STATE HAS NO INFORMATION.—If the State has no information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(9) THE STATE PROVES THE INDIVIDUAL SHOULD BE CONSIDERED.—If the State proves the individual should be considered, then the significant period shall begin on the date such information is received by the State.

(10) THE STATE HAS COLLECTED.—If the State has collected information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(11) THE STATE PROVES THE INDIVIDUAL SHOULD BE CONSIDERED.—If the State proves the individual should be considered, then the significant period shall begin on the date such information is received by the State.

(12) THE STATE PLANS TO SEEK PROBATION OR PAROLE.—If the State plans to seek probation or parole for the individual, the significant period shall begin on the date such request is made.

(13) THE STATE HAS NO INFORMATION.—If the State has no information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(14) THE STATE PROVES THE INDIVIDUAL SHOULD BE CONSIDERED.—If the State proves the individual should be considered, then the significant period shall begin on the date such information is received by the State.

(15) THE STATE PLANS TO SEEK PROBATION OR PAROLE.—If the State plans to seek probation or parole for the individual, the significant period shall begin on the date such request is made.

(16) THE STATE HAS NO INFORMATION.—If the State has no information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(17) THE STATE PROVES THE INDIVIDUAL SHOULD BE CONSIDERED.—If the State proves the individual should be considered, then the significant period shall begin on the date such information is received by the State.

(18) THE STATE PLANS TO SEEK PROBATION OR PAROLE.—If the State plans to seek probation or parole for the individual, the significant period shall begin on the date such request is made.

(19) THE STATE HAS NO INFORMATION.—If the State has no information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(20) THE STATE PROVES THE INDIVIDUAL SHOULD BE CONSIDERED.—If the State proves the individual should be considered, then the significant period shall begin on the date such information is received by the State.

(21) THE STATE PLANS TO SEEK PROBATION OR PAROLE.—If the State plans to seek probation or parole for the individual, the significant period shall begin on the date such request is made.

(22) THE STATE HAS NO INFORMATION.—If the State has no information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(23) THE STATE PROVES THE INDIVIDUAL SHOULD BE CONSIDERED.—If the State proves the individual should be considered, then the significant period shall begin on the date such information is received by the State.

(24) THE STATE PLANS TO SEEK PROBATION OR PAROLE.—If the State plans to seek probation or parole for the individual, the significant period shall begin on the date such request is made.

(25) THE STATE HAS NO INFORMATION.—If the State has no information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(26) THE STATE PROVES THE INDIVIDUAL SHOULD BE CONSIDERED.—If the State proves the individual should be considered, then the significant period shall begin on the date such information is received by the State.

(27) THE STATE PLANS TO SEEK PROBATION OR PAROLE.—If the State plans to seek probation or parole for the individual, the significant period shall begin on the date such request is made.

(28) THE STATE HAS NO INFORMATION.—If the State has no information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(29) THE STATE PROVES THE INDIVIDUAL SHOULD BE CONSIDERED.—If the State proves the individual should be considered, then the significant period shall begin on the date such information is received by the State.

(30) THE STATE PLANS TO SEEK PROBATION OR PAROLE.—If the State plans to seek probation or parole for the individual, the significant period shall begin on the date such request is made.

(31) THE STATE HAS NO INFORMATION.—If the State has no information that the individual is subject to other serious crimes and the individual is not released from such sentence, then the significant period shall begin on the date such information is received by the State.

(32) THE STATE PROVES THE INDIVIDUAL SHOULD BE CONSIDERED.—If the State proves the individual should be considered, then the significant period shall begin on the date such information is received by the State.
grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.

(A) FOR FAILURE TO SUBMIT REQUIRED REPORT.—

(1) IN GENERAL.—If the Secretary determines that a State has not submitted a report required by section 402(a)(1) for the immediately succeeding fiscal year quarter by the end of the fiscal year quarter, submitted the report required by section 410 for the fiscal year, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

(2) REJECTION OF PENALTY.—The Secretary shall rescind the penalty imposed on the State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

(B) FOR FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

(1) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 402 for a fiscal year has failed to comply with section 402(a)(1) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant.

(2) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) based on the degree of noncompliance.

(3) FOR FAILURE TO PARTICIPATE IN THE INCOME ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system established by section 410, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year, by an amount equal to not more than 2 percent of the State family assistance grant.

(4) FOR FAILURE TO COMPLY WITH PARENTAL ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the program who fail to cooperate in establishing paternity in accordance with section 405, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year without regard to this section by not more than 5 percent.

(5) FOR FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 405 within the period of a fiscal year, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary shall not forgive any outstanding loan amount or interest owed on the outstanding amount.

(6) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—The term ‘State’ expenditures under the State program funded under this part means, with respect to a State and a fiscal year, the sum of the expenditures by the State under this part for the fiscal year for—

(a) cash assistance;

(b) child care assistance;

(c) education, job training, and work;

(dd) administration of the program; and

(ee) any other use of funds allowable under section 403(a)(1).

(2) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include funding supplied by transfers from other State and local programs.

(3) APPLICABILITY.—The term ‘applicable percentage’ means—

(I) for fiscal years 1996, 75 percent; and

(ii) for fiscal years 1997, 1998, 1999, and 2000, 75 percent reduced (if appropriate) in accordance with subparagraph (C)(ii).

(4) HISTORIC STATE EXPENDITURES.—The term ‘historic State expenditures’ means, with respect to a State, the lesser of—

(I) the expenditures by the State under parts A and F of this title (as in effect during fiscal year 1994) for fiscal year 1994; or

(ii) the amount which bears the same ratio to the amount described in clause (I) as—

(aa) the State family assistance grant for the immediately preceding fiscal year;

(b) the total amount of Federal payments to the State under section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

(5) EXPENDITURES BY THE STATE.—The term ‘expenditures by the State’ does not include any expenditures from amounts made available by the Federal Government, State funds expended for the Medicaid program under title XXI, or any State funds which are used to match Federal funds or are expended as a condition of receiving Federal funds under Federal programs other than under title I.

(6) APPLICABLE PERCENTAGE REDUCED FOR STATES WITH BEST OR MOST IMPROVED PERFORMANCE IN CERTAIN AREAS.—

(1) SCORING OF STATE PERFORMANCE.—Beginning with fiscal year 1997, the Secretary shall assign to each State a score that represents the performance of the State for the fiscal year in each category described in clause (ii).

(2) CATEGORIES.—The categories described in this clause are the following:

(i) Increasing the number of families that receive assistance under a State program funded under this part in the fiscal year, and that, during the fiscal year, become ineligible for such assistance due to receipt of employment.

(ii) Reducing the percentage of families that, within 18 months after becoming ineligible for assistance under the State program funded under this part, become eligible for such assistance.

(iii) Increasing the amount earned by families that receive assistance under this part.

(iv) Reducing the percentage of families in the State that receive assistance under the State program funded under this part.

(3) MAINTENANCE OF EFFORT THRESHOLD.—

(I) REDUCTION FOR STATES WITH 5 GREATEST SCORES IN EACH CATEGORY OF PERFORMANCE.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points, with respect to each category described in clause (ii) for which the score assigned to the State under clause (i) is 1 of the 5 highest scores so assigned to States.

(II) REDUCTION FOR STATES WITH 5 GREATEST IMPROVEMENT IN SCORES IN EACH CATEGORY OF PERFORMANCE.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points for a State for a fiscal year, with respect to each category described in clause (i) for which the score assigned to the State under clause (i) is 1 of the 5 highest scores so assigned to States.

(III) ACCEPTANCE OF PLAN.—Any State notified under subparagraph (A) shall have 60 days in which to submit a corrective compliance plan in accordance with this subsection. Any corrective compliance plan shall be deemed to be accepted.

(IV) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—Any State notified under subparagraph (A) shall have 60 days in which to submit a corrective compliance plan to correct any violations described in subparagraph (A).

(V) ACCEPTANCE OF PLAN.—If the Secretary determines that the State has reasonable cause for failing to comply with the requirement, the Secretary shall have 60 days to accept or reject the corrective compliance plan. If the Secretary does not accept or reject the corrective compliance plan during the period, the corrective compliance plan shall be deemed to be accepted.
"(2) FAILURE TO CORRECT.—If a corrective compliance plan is accepted by the Federal Government, no penalty shall be imposed with respect to a violation described in paragraph (1) if the State takes immediate action to cure the violation pursuant to the plan. If a State has not corrected the violation in a timely manner under the plan, some or all of the penalty shall be assessed.

"(3) THE PENALTIES.—

"(1) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

"(2) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that paragraph (1) prevents the Secretary from recovering during a fiscal year an amount of all penalties imposed on a State under subsection (a) for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year.

"SEC. 409. APPEAL OF ADVERSE DECISION.

"(a) IN GENERAL.—Within 5 days after the date any adverse decision is made or action is taken under this part with respect to a State, the Secretary shall notify the chief executive officer of the State of the adverse decision or action, including any decision with respect to the State plan submitted under section 401 or the imposition of a penalty under section 408.

"(b) ADMINISTRATIVE REVIEW OF ADVERSE DECISION.—

"(1) IN GENERAL.—Within 60 days after the date a State receives notice under this section of an adverse decision, the State may appeal the decision, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (in this section referred to as the 'Board') by filing an appeal with the Board.

"(2) PROCEDURAL RULES.—The Board shall conduct an appeal on the basis of such documentation as the State may submit and as relevant evidence. The Board shall make a final determination with respect to an appeal filed under this paragraph not less than 60 days after the date the appeal is filed.

"(c) JUDICIAL REVIEW OF ADVERSE DECISION.—

"(1) IN GENERAL.—Within 90 days after the date of a final decision of the Board with respect to an adverse decision regarding a State under this section, the State may obtain review of the final decision (and the findings and conclusions set forth in the decision) by filing an appeal with the Board.

"(2) ADMINISTRATIVE REVIEW OF ADVERSE DECISION.—

"(1) IN GENERAL.—The report required by subsection (a) for any month shall include the total amount expended by the State during the quarter for such purposes.

"(2) PROCUREMENT.—The report required by subsection (a) for a fiscal quarter shall include the total amount expended by the State during the quarter for providing transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.

"(g) REPORT TO CONGRESS.—Not later than 6 months after the end of fiscal year 1997, and annually thereafter, the Secretary shall transmit to Congress a report describing—

"(1) whether the States are meeting—

"(a) the participation rates described in section 406(a) and

"(b) the objectives of—

"(i) increasing employment and earnings of needy families, and child support collections; and

"(ii) decreasing out-of-wedlock pregnancies and child poverty;

"(2) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;

"(3) the characteristics of each State program funded under this part; and

"(4) the trends in employment and earnings of needy families with minor children living at home.

"SEC. 411. DIRECT FUNDING AND ADMINISTRATION.

"(a) GRANTS FOR INDIAN TRIBES.—

"(1) TRIBAL FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—For each of fiscal years 1997, 1998, and 1999, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount determined by the Secretary under paragraph (3).

"(B) AMOUNT DETERMINED.—The amount determined under this paragraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 for fiscal year 1994 (as in effect during such fiscal year) attributable to expenditures by the State.

"(C) USE OF GRANT.—The Secretary may use the grant for any purpose to which the expenses of the tribal agency or program of the tribe are attributable.

"(D) EQUAL DISTRIBUTION.—The Secretary shall divide the amounts provided under this section among Indian tribes eligible for grants under this section by allocating such amounts among eligible Indian tribes in proportion to the ratio of the number of eligible Indian children on the rolls of such Indian tribes to the total number of such children in the Nation.

"(e) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The report required by subsection (a) for a fiscal quarter shall include the number of noncustodial parents in the State who participated in work activities (as defined in section 406(d)) during the quarter.

"(f) REPORT ON TRANSITIONAL SERVICES.—The report required by subsection (a) for a fiscal quarter shall include the total amount expended by the State during the quarter for transitional services to a family that has ceased to receive assistance under this part because of employment.
appropriated, there are appropriated $7,638,474 for each fiscal year specified in subparagraph (A) for grants under subparagraph (A).

(b) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.

``(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that—

``(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with this section;

``(B) identifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;

``(C) identifies the population and service area or areas to be served by such plan;

``(D) specifies whether a recipient of assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

``(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and

``(F) applies the fiscal accountability provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by section 75 of the Code.

``(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

``(3) CONSISTENCY OF TRIBES.—Nothing in this section shall preclude the development and submission of a single tribal family assistance plan by the participating Indian tribes of an intertribal consortium.

``(4) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under the grant, and penalties against individuals—

``(I) consistent with the purposes of this section;

``(II) consistent with the economic conditions and resources available to each tribe; and

``(III) similar to comparable provisions in section 406(d).

``(5) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.

``(6) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

``(I) generally accepted accounting principles; and

``(II) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

``(7) PENALTIES.—

``(a) Subsections (a)(1), (a)(6), and (b) of section 408, shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such subsections apply to a State.

``(b) Section 408(a)(3) shall apply to an Indian tribe with an approved tribal assistance plan by substituting 'meet minimum work participation requirements established under section 411(c)' for 'comply with section 406(a)'.

``(c) REPORTING.—Section 410 shall apply to an Indian tribe with an approved tribal family assistance plan.

``(h) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.

``(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), a tribal organization in the State of Alaska that receives a tribal family assistance grant under this section shall use the grant to operate a program in accordance with the requirements comparable to the requirements applicable to the program of the State of Alaska funded under this part. Comparability of programs shall be established on the basis of programs described in subparagraphs (A) and (B) of section 406 of this Act in consultation with the State of Alaska and the tribal organizations.

``(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

``SECTION 412. RESEARCH, EVALUATIONS, AND IMPLICATIONS.

``(a) RESEARCH.—The Secretary shall conduct research on the benefits, costs, and effects of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment, required, child well-being, and any other area the Secretary deems appropriate. The Secretary shall also conduct studies on the costs and benefits of State activities under section 406.

``(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WELL-BEING.—

``(1) IN GENERAL.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children living at home with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.

``(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the maximum extent feasible, use random assignment as an evaluation methodology.

``(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop and disseminate innovative methods of disseminating information on any research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.

``(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WELFARE PROGRAMS.—

``(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 402 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, including individuals formerly applying to the State program and receiving assistance. In ranking States under this subsection, the Secretary shall take into account the average number of minor children living at home in families in the State that have incomes below the poverty line and the amount of funding provided each State for such families.

``(2) ANNUAL REVIEW OF MOST AND LEAST SUCCESSFUL WELFARE PROGRAMS.—The Secretary shall review the programs of the 3 States most recently ranked highest under paragraph (1) and the 3 States most recently ranked lowest under paragraph (1) that provide parents with work experience, assistance in finding employment, and other such activities and support services to enable the families of such parents to leave the program and become self-sufficient.

``(e) ANNUAL RANKING OF STATES AND REVIEW OF ISSUES RELATED TO OUT-OF-WEDLOCK BIRTHS.—

``(1) ANNUAL RANKING OF STATES.—

``(A) IN GENERAL.—The Secretary shall annually rank States to which grants are made under section 402 based on the following ranking factors:

``(I) THE ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—

``(i) the total number of out-of-wedlock births in the State receiving assistance under the State program under this part in the most recent fiscal year for which information is available; over

``(ii) the total number of births in families receiving assistance under the State program in the State for such year.

``(B) THE NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference described in subparagraph (A)(i) for the most recent fiscal year for which information is available, and such State's ratio determined for the preceding year.

``(2) ANNUAL REVIEW.—The Secretary shall review the programs of the 5 States most recently highest under paragraph (1) and the 5 States most recently ranked lowest under paragraph (1).

``(f) STATE-INITIATED STUDIES.—A State shall be eligible to receive funding to evaluate the State's family assistance program funded under this part if—

``(I) the State submits a proposal to the Secretary for such evaluation,

``(II) the Secretary determines that the design and approach of the evaluation is rigorous and is likely to yield information that is credible and will be useful to other States, and

``(III) unless otherwise waived by the Secretary, the State provides a non-Federal share of at least 10 percent of the cost of such study.

``(g) FUNDING OF STUDIES AND DEMONSTRATION PROJECTS.—

``(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $15,000,000 for each fiscal year specified in section 402(a)(1) for the purpose of paying—

``(I) the cost of conducting the research described in subsection (a);

``(II) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b); and

``(III) the Federal share of any State-initiated study approved under subsection (f); and

``(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

``(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

``(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

``SECTION 413. STUDY BY THE CENSUS BUREAU.

``(a) IN GENERAL.—The Bureau of the Census shall expand the Survey of Income and Program Participation as necessary to obtain such information as will enable interested persons to evaluate the impact of the amendments made by title V of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) to Title IV-D of the Social Security Act (42 U.S.C. 651 et seq.).
and 2000 for payment to the Bureau of the Census to carry out subsection (a).

**SEC. 414. WAIVERS.**

(a) **CONTINUATION OF WAIVERS.**—

(1) Except as provided in paragraph (2), if any waiver granted to a State under section 1115 or otherwise which relates to the provision of assistance under a State plan approved under part E is subject to the expiration of the waiver unless the State waives the terms and conditions of such waiver.

(2) Report.—A State shall submit a report to the Secretary summarizing the waiver described in paragraph (1) before the expiration of the waiver.

(b) **STATE OPTION TO TERMINATE WAIVER.**—

(1) In general.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

(2) **REPORT.**—A State which terminates a waiver pursuant to paragraph (1) shall submit a report to the Secretary concerning the waiver and any available information concerning the result or effect of such waiver.

(c) **HOLD HARMLESS PROVISION.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under section 1115 or otherwise which relates to the State's plan approved under part E.

(2) **DATE DESCRIBED.**—The date described in subparagraph (B) shall be the date described in subparagraph (B) of section 1115 or otherwise which relates to the State's plan approved under part E.

(3) **HOLD HARMLESS PROVISION.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the terms and conditions of such waiver.

(b) **DATE DESCRIBED.**—The date described in this subparagraph is the later of—

(i) January 1, 1996; or

(ii) 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996.

(c) **SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS.**—The Secretary shall encourage any State operating a waiver described in subsection (a) to continue such waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of such waiver.

(d) **INDIVIDUAL WAIVERS.**—A State may elect to continue one or more individual waivers described in subsection (a).

**SEC. 415. ASSISTANT SECRETARY FOR FAMILY SUPPORT.**

The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, and by with the advice and consent of the Senate, and who shall be in charge of the Assistant Secretary of Health and Human Services provided for by law.

**SEC. 416. LIMITATION ON FEDERAL AUTHORITY.**

No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.

**SEC. 417. DEFINITIONS.**

As used in this part:

(1) **ADULT.**—The term ‘adult’ means an individual who is not a minor child.

(2) **FAMILY.**—The term ‘family’ means an individual who—

(A) has not attained 18 years of age; or

(B) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

(3) **FISCAL YEAR.**—The term ‘fiscal year’ means any 12-month period ending on September 30 of a calendar year.

(4) **INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.**

(a) **IN GENERAL.**—Except as provided in subparagraph (B), the terms ‘Indian’, ‘Indian tribe’, and ‘tribal organization’ have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) **APPLICATION FOR INDIAN TRIBES IN ALASKA.**—The term ‘Indian tribe’ means, with respect to the State of Alaska, only the following Alaska Native regional nonprofit corporations:

(1) Arctic Slope Native Association.

(2) Kawerak, Inc.

(3) Aleutian and Pribilof Island Association.

(4) Chugach Sunkait.

(5) Tlingit Haida Central Council.

(6) Kodiak Area Native Association.

(7) Copper River Native Association.

(8) Emmonak Tribes.

(9) State. — Except as otherwise specifically provided, the term ‘State’ includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

**SEC. 12102. REPORT ON DATA PROCESSING.**

(a) **IN GENERAL.**—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Congress a report on—

(1) the status of the automated data processing systems of the States to establish a system required by subsection (a) should include—

(A) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in subsection (a) (2); and

(B) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.

(2) **CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.**

(a) **AMENDMENTS TO TITLE IV.**


(B) by striking “a agency administering a program funded under part A of title IV or before “an agency operating” and inserting “A or D of title IV of this Act” and inserting “D of such title”.

(2) **SECTION 228(d)(1) (42 U.S.C. 628(d)(1)) is amended by inserting “under a State plan funded” and inserting “pursuant to section 401(a)(17)”.

(3) **SECTION 425(a)(10)(F) (42 U.S.C. 652(a)(10)(F)) is amended—

(A) by striking “aid under a State plan approved and inserting “such assistance under a State program funded”;

(B) by striking “aid under a State plan approved under part A” and inserting “under a State plan approved under part A”;

(C) by striking “aid under a State plan approved and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(D) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(E) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(F) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(G) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(H) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(I) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(J) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(K) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(L) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(M) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(N) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(O) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(P) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(Q) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(R) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(S) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(T) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(U) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(V) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(W) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(X) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(Y) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(Z) by striking “aid under a State plan approved, and inserting “aid under the State’s plan approved under part A or E” and inserting “aid under the State’s plan approved under part A or E”;

(a) **REPEAL OF PART F OF TITLE IV.**—Part F of title IV of the Social Security Act (42 U.S.C. 652) is repealed.
striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and inserting "program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.)". The sentence complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.

(b) Section 6 of such Act (7 U.S.C. 2025) is amended—

(1) in subsection (c)(5), by striking "the State plan approved" and inserting "the State program funded";

(2) in subsection (e)—

(A) by striking "or part A to families with dependent children" and inserting "benefits under a State program funded";

(B) by inserting before the semicolon the following:

"that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995";

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

"(1) Eligibility Under Other Law.—Notwithstanding any other provision of this Act, a household may not receive benefits under this Act as a result of the household's eligibility under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.

(c) Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4)) is amended by striking "State plans under the Aid to Families with Dependent Children Program under sections 601 and 606 of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "State programs funded under part A of";

(d) Section 17 of such Act (7 U.S.C. 2026) is amended—

(1) in the first sentence of subsection (b)(1)(A), by striking "to aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and

(2) in subsection (b)(8), by adding at the end the following new subparagraph:

"(i) The Secretary may not grant a waiver under this paragraph on or after October 1, 1995, with respect to reference in a provision of title IV of the Social Security Act to the extent that the Secretary determines that a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is comparable to or more restrictive than those in effect on June 1, 1995.

SEC. 12104. CONFORMING AMENDMENTS TO THE FOOD STAMP ACT OF 1977 AND RELATED PROVISIONS.

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

(1) in the second sentence of section (a), by striking "plan approved" and all that follows through "Social Security Act" and inserting "program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and

(b) Sections 6, 7, 8, 9, and 10 of such Act (7 U.S.C. 2015, 2016, 2017, 2018, and 2019) are amended—

(1) in the first sentence of subsection (b)(1), by striking "aid under the State plan approved" and inserting "assistance under a State program funded";

(2) in subsection (b)(2), by adding at the end the following new paragraph:

"(i) The Secretary may not grant a waiver under this paragraph on or after October 1, 1995, with respect to reference in a provision of title IV of the Social Security Act to the extent that the Secretary determines that a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is comparable to or more restrictive than those in effect on June 1, 1995.

(c) Section 20 of such Act (7 U.S.C. 2029) is amended—

(1) in subsection (a)(2)(B) by striking "operating—" and all that follows through "any other" and inserting "operating any"; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(1)(A) A household and inserting "(1)(B) A household and

(ii) in subparagraph (B), by striking "training program" and inserting "activity";

(iii) by striking paragraph (2); and

(C) by redesigning subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(d) Sections 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-186; 7 U.S.C. 612c note) is amended by striking "the program for aid to families with dependent children" and inserting "the State program funded";

(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b) (A)—

(A) in paragraph (2)(C)(ii)(I)—

(i) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(ii) by inserting before the period the following: "that the Secretary determines
complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995; and (c) the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995; and

(ii) by striking "aid to families with dependent children'' and in-

serting "assistance under a State program funded under part A of title IV of the Social Security Act''.

(h) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(e) Section 159 of the Tax Equity and Fiscal Responsibility Act of 1982 (26 U.S.C. 6202 note) is repealed.

(f) Section 202(d) of the Social Security Amendments of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.

(g) Section 903 of the Stewart B. McKinney Homeless Assistance Act of 1988 (42 U.S.C. 13181 note), relating to demonstration projects to reduce number of AFD families in welfare hotels, is amended—

(iii) by striking "aid to families with dependent children subsidized under AFD programs approved and inserting "assistance under a State program funded under part A of title IV of the Social Security Act''.

(i) The Department of Labor and Employment Assistance Amendments of 1976 (42 U.S.C. 602 note) is amended—

(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(k) Chapter VII of title I of Public Law 99-88 (25 U.S.C. 1381) is amended to read as follows: "(A) Aid to Families with Dependent Children'';

(l) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended—

(m) The Wagner-Peyser Act (29 U.S.C. 49b(a)) is amended by striking "claim approved under part A of title IV of the Social Security Act''.

(n) The Job Training Partnership Act (29 U.S.C. 2901 et seq.) is amended—

(o) Section 201(a) (29 U.S.C. 1625) is amended—

(p) in subparagraph (B)(iv), by striking ``, including recipients under the JOBS program or'',' and inserting ``including recipients under the JOBS program or'',' and inserting "assistance under a State program funded under part A of title IV of the Social Security Act'';

(q) the third sentence of section 3(a) of the Act entitled `An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes' purposes approved June 6, 1933 (29 U.S.C. 49b(a)), or

(r) by a State or local agency charged with the duty of carrying a State plan for child support approved under part D of title IV of the Social Security Act, shall be considered to constitute expenses incurred in the administration of such State plan.

(b) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (26 U.S.C. 6202 note) is repealed.

(c) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (26 U.S.C. 6202 note) is repealed.

(d) Section 221 of the Housing and Urban-Rural Reinvestment Act of 1993 (42 U.S.C. 6202 note), relating to treatment under AFD of certain rental payments for federally assisted housing, is repealed.

(e) Section 415 of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 6202 note) is repealed.
(13) in section 455(b) (29 U.S.C. 1735(b)), by striking "the OBJS program"; (14) in section 501(1) (29 U.S.C. 1791(1)), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act"; (15) in section 506(1)(A) (29 U.S.C. 1791e(1)(A)), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act"; (16) in section 508(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under the State program funded"; and (17) in section 701(b)(2)(A) (29 U.S.C. 1791b(2)(A)), (A) by striking (v), by striking the semicolon and inserting ";", and (B) by striking clause (vi). (o) Section 380(c)(2)(C)(i) of title 31, United States Code, is amended to read as follows: "(iv) assistance under a State program funded under part A of title IV of the Social Security Act:"; (p) Section 2605(b)(2)(A)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i)) is amended to read as follows: "(i) assistance under the State program funded under part A of title IV of the Social Security Act:"; (q) Section 303(f)(2) of the Family Support Act of 1988 (42 U.S.C. 679f-3(f)(2)) is amended— (1) by striking "(A)"; and (2) by striking subparagraphs (B) and (C). (r) The Balanced Budget and Emergency Deficit Control Act of 1995 (2 U.S.C. 900 et seq.) is amended— (1) in the first section 255(h) (2 U.S.C. 905(h)), by striking "aid to families with dependent children under part A of the Social Security Act" and inserting "block grants to States for temporary assistance for needy families"; and (2) in section 256 (2 U.S.C. 906)— (A) by striking subsection (k) and (B) by redesignating subsection (l) as subsection (k). (s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended— (1) in section 210(f) (8 U.S.C. 1160(f)), by striking "aid under a State plan approved under" each place where such term appears and inserting "assistance under a State program funded under"; (2) in section 245A(h) (8 U.S.C. 1255a(h)— (A) in paragraph (1)(A)(i), by striking "program" and inserting "program of assistance for"; and (B) in paragraph (2)(B), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act"; and (3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by striking "State plan program" and inserting "State plan program funded"; (t) Section 406(a)(1)(B)(ii) of the Head Start Act (42 U.S.C. 980(a)(1)(B)(ii)) is amended by striking "program of aid to families with dependent children under a State plan approved" and inserting "program of assistance under a State plan approved"; (u) Section 9 of the Act of April 19, 1950 (64 Stat. 47, chapter 92; 25 U.S.C. 639) is repealed. (v) Subparagraph (E) of section 213(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 6143(d)(6)) is amended to read as follows— "(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities:"; SEC. 12106. EFFECTIVE DATE; TRANSITION RULE. (a) In General.—Except as otherwise provided in this subtitle and the amendments made by this subtitle shall take effect on October 1, 1995.
(4) Section 1631(a)(2)(D)(i)(I) (42 U.S.C. 1382(a)(2)(D)(i)(I)) is amended by striking "eligible for benefits" and all that follows through "is disabled", inserting "is disabled", and making conforming amendments.

(c) Treatment Referrals for Individuals with an Alcoholism or Drug Addiction Condition.—

Title XVI of 42 U.S.C. 1381 et seq. is amended by adding at the end the following new section:

"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Sec. 1636. In the case of any eligible individual who is described in this title by reason of disability and is paid to a representative payee pursuant to section 1631a(2)(A)(i)(II), the Commissioner of Social Security shall, if such individual is referred to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XXIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.), make treatment referrals for such individual with the State agency."

(d) Conforming Amendments.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking subsection (e).

(2) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(3) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382c–45) is amended—

(A) by striking "to——" and all that follows through 'in cases in which' and inserting 'to individual[s] related to disabilty insurance benefits or child's, widow's, or widower's insurance benefits based on disability under title II of the Social Security Act, in cases in which——'

(B) by striking 'either subparagraph (A) or (B)' and inserting 'the preceding sentence'; and

(C) by striking 'subparagraph (A) or (B)' and inserting 'the preceding sentence'.

(e) Supplemental Funding for Alcohol and Substance Abuse Treatment Programs.—

(1) In any of any funds allotted under this subparagraph to be appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33), $50,000,000 for each of the fiscal years 1997 and 1998.

(2) Additional Funds.—Amounts appropriated pursuant to paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) and shall be allocated under section 1933.

(3) Use of Funds.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

(f) Effective Dates.—

(1) In general.—As provided in paragraphs (2) and (3), the amendments made by this section shall apply to beneficiaries for months beginning on or after the date of the enactment of this Act, without regard to the period and inserting "whether regulations have been issued to implement such amendments."

(2) Application to Current Recipients.—

(A) Application and Notice.—Notwithstanding any other provision of law, the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(B) Reappraisal.—

(i) In general.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subparagraph (A) who desires to reapply for benefits under title XVI of the Social Security Act, as amended by this title, shall reapply to the Commissioner of Social Security.

(ii) Determination of Eligibility.—Not later than January 1, 1997, the Commissioner of Social Security shall issue regulations to determine eligibility for the continuation of each individual who reapplies for benefits under clause (i) pursuant to the procedures of title XVI of such Act.

(3) Additional Application of Payee Representative and Treatment Referral Requirements.—The amendments made by subsections (b) and (c) shall also apply—

(A) in the case of any individual who is receiving supplemental security income benefits under title XVI of the Social Security Act and has attained age 65, in such manner as determined appropriate by the Commissioner of Social Security.

SEC. 12202. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

(a) In General.—Section 1614(a) (42 U.S.C. 1382a(e)) is amended by striking subsection (e).

(5) An individual shall not be considered an eligible individual for the purposes of this title during the 10-year period that begins on the date the individual is convicted in Federal or State court of a crime which is punishable by imprisonment for a term exceeding 1 year, and which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 12203. DENIAL OF SSI BENEFITS FOR FUGITIVES FROM JUSTICE.

(a) In General.—Section 1614(a) (42 U.S.C. 1382a(e)) is amended by adding at the end the following new paragraph:

"(5) An individual shall not be considered an eligible individual for the purposes of this title with respect to any month if during such month the person is—

(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of an individual under the age of 18, if the individual is convicted in Federal or State court of a crime which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

(B) absent without leave from a correctional institution imposed under Federal or State law.''

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 12204. MEDICAL IMPE​ROVEMENT REVIEW STANDARD AS IT APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.

(a) In General.—Section 1614(a)(4) (42 U.S.C. 1382a(4)) is amended by redesigning subclauses (I) and (II) of subparagraph (B) as clauses (aa) and (bb), respectively.

(b) By redesigning subparagraphs (A) and (B) as subsections (a) and (b), respectively, and by moving their left hand margin 2 ems to the right;

(c) By inserting before clause (i) (as redesignated by paragraph (3)) the following new clause:

"(A) in the case of an individual who is age 16 or older——'

(2) By redesigning subparagraph (A) (as redesignated by paragraphs (3) and (4), by striking the period and inserting ‘‘; or’’;
(6) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following:

"(B) in the case of an individual who is under the age of 18, if the Commissioner determines that the individual has attained the age of 18 before the date of the enactment of this Act and whose case is reviewed under this clause shall be served with notice that the Commissioner determines that the individual has attained the age of 18 before the date of the enactment of this Act, the Commissioner shall only apply with respect to the individual described in subparagraph (A) of the provision during that 1-year period.

(ii) if the provisions of subclause (II), the Commissioner of Social Security shall determine that the individual is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

(iii) If the representative payee refuses to comply without good cause with the requirement of subclause (ii), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

(iv) Subclause (ii) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines that continuation of payments would not be in the best interest of the individual.


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(6) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following:

"(B) in the case of an individual who is under the age of 18, if the Commissioner determines that the individual has attained the age of 18 before the date of the enactment of this Act and whose case is reviewed under this clause shall be served with notice that the Commissioner determines that the individual has attained the age of 18 before the date of the enactment of this Act, the Commissioner shall only apply with respect to the individual described in subparagraph (A) of the provision during that 1-year period.

(ii) if the provisions of subclause (II), the Commissioner of Social Security shall determine that the individual is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

(iii) If the representative payee refuses to comply without good cause with the requirement of subclause (ii), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

(iv) Subclause (ii) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines that continuation of payments would not be in the best interest of the individual.


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(6) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following:

"(B) in the case of an individual who is under the age of 18, if the Commissioner determines that the individual has attained the age of 18 before the date of the enactment of this Act and whose case is reviewed under this clause shall be served with notice that the Commissioner determines that the individual has attained the age of 18 before the date of the enactment of this Act, the Commissioner shall only apply with respect to the individual described in subparagraph (A) of the provision during that 1-year period.

(ii) if the provisions of subclause (II), the Commissioner of Social Security shall determine that the individual is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

(iii) If the representative payee refuses to comply without good cause with the requirement of subclause (ii), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

(iv) Subclause (ii) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines that continuation of payments would not be in the best interest of the individual.


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(6) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following:

"(B) in the case of an individual who is under the age of 18, if the Commissioner determines that the individual has attained the age of 18 before the date of the enactment of this Act and whose case is reviewed under this clause shall be served with notice that the Commissioner determines that the individual has attained the age of 18 before the date of the enactment of this Act, the Commissioner shall only apply with respect to the individual described in subparagraph (A) of the provision during that 1-year period.

(ii) if the provisions of subclause (II), the Commissioner of Social Security shall determine that the individual is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

(iii) If the representative payee refuses to comply without good cause with the requirement of subclause (ii), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

(iv) Subclause (ii) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines that continuation of payments would not be in the best interest of the individual.

medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(IV) If the representative payee refuses to comply with the requirements of subsection (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly transfer benefits to the individual as a representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual would be served thereby, to the individual.

"(IV) Subclause (III) shall not apply to the representative payee of any individual with respect to which such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subsection (III) should not apply to an individual's representative payee.

(d) Effective date. The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 12213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.-(1) In general. Section 1613(c) (42 U.S.C. 1382b(c)) is amended to read as follows:

"(c) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—(1)(A) If an individual who has not attained 18 years of age (or any person acting on such individual's behalf) disposes of resources of the individual for less than fair market value on or after the look-back date specified in clause (ii) of this paragraph, the individual is ineligible for benefits for the month in which the resources were disposed of for less than fair market value and that does not occur in any other period of ineligibility under this paragraph.

"(C) For purposes of this subsection—

(1) the term 'trust' includes any legal instrument in which an interest of the individual is held; and

(2) the term 'corpus' means all property and other interests held by the trust, including accumulated earnings and any other addition to such trust after its establishment (except that such term does not include any such earnings or addition in the month in which such earnings or addition is credited or otherwise transferred to the trust).

(2) TREATMENT AS INCOME.—Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended—

"(A) by striking "and" at the end of subparagraph (a); and

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

"(3) For purposes of this subsection—

(1) the term 'trust' includes any legal instrument or device that is similar to a trust; and

(2) the term 'benefit' under this title includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

(3) TREATMENT AS INCOME.—Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended—

"(A) by striking "and" at the end of subparagraph (E); and

"(B) by striking the period at the end of subparagraph (F) and inserting "; and"; and

"(C) by adding at the end the following new subparagraph:

"(5) any earnings of, and additions to, the corpus of a trust (as defined in section 1613(f)) established by an individual (within the meaning of paragraph (2)(A) of section 1613(e)) and of which such individual is a beneficiary (other than a trust to which paragraph (4) of such section applies); except that in the case of an irrevocable trust, there shall exist circumstances under which payment from such earnings or additions could be made to, or for the benefit of, such individual.

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996, and shall apply to trusts established on or after such date.
(c) Requirement to Establish Account.—

(1) In General.—Section 1631(a)(2) (42 U.S.C. 1383a(2)) is amended—

(A) by redesigning subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(B) by inserting after subparagraph (E) the following new subparagraph:

“(I) any other child, if an individual applies for such services with respect to the child; and

(B) by inserting “providing that” and inserting “other” in clause (ii).

(C) by redesigning the sentence beginning “(C) except” as follows:

“(C) except that the State shall provide such services, subject to the provision of such services with respect to the child; and

(D) by inserting the following new subparagraph:

“(1) the assets and accrued interest or other earnings of any account established and maintained in accordance with section 1631(a)(2)(F).”.

(3) Exclusion from Income.—Section 1612(b) (42 U.S.C. 1382b(b)) is amended—

(A) by striking “and” at the end of paragraph (13); and

(B) by striking the period at the end of paragraph (20) and inserting “; and”;

(C) by adding at the end the following new paragraph:

“(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(3)(F).”.

(4) Effective Date.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

Subtitle C—Child Support

Title X—Child Support Services

Except as otherwise specifically provided, where an individual or an entity provides service with respect to a child, notwithstanding section 454(4)(A)(ii), the provisions of this Act shall be construed to make such service available to residents of other States on the same basis as services provided under the Social Security Act.

(a) State Plan Requirements.—Section 1631(o) (42 U.S.C. 1382o) is amended—

(A) in paragraph (9), by striking “; and” and inserting a semicolon;

(B) in the first paragraph (10), by striking the period and inserting a semicolon;

(C) by redesigning the sentence beginning “(II) the State share of the amount so collected; and” as follows:

“(II) the State share of the amount so collected; and

(D) by inserting at the end the following:

“(I) any other child, if an individual applies for such services with respect to the child; and

(B) by providing that the State shall—

(A) retain, or distribute to the family, the State share of the amount so collected; and

(B) by providing that the State shall—

(A) provide services relating to the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to—

(1) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services for foster care maintenance or assistance under title IV-B, and (III) medical assistance is provided under the State plan approved under title XXI, unless the State agency administering the plan determines (in accordance with section 12214(d)(2)(B)(ii)) that in the case of a family ceasing to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the provision of such services with respect to the child; and

(2) any other child, if an individual applies for such services with respect to the child; and

(3) by adding after paragraph (2) the following new paragraph:

“(4) Effective Date.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.”.

Subtitle D—Income Maintenance

Title XIX—Aid to Families with Dependent Children

(a) Redesignation of Subtitle B.—Subtitle B of title XIX (42 U.S.C. 601 et seq.) is redesignated as “Subtitle C—Child Support Services”.

(b) Redesignation of Subtitle C.—Subtitle C of title XIX (42 U.S.C. 631 et seq.) is redesignated as “Subtitle D—Income Maintenance”.

(c) Redesignation of Subtitle D.—Subtitle D of title XIX (42 U.S.C. 651 et seq.) is redesignated as “Subtitle E—Health Coverage”.

(d) Redesignation of Subtitle E.—Subtitle E of title XIX (42 U.S.C. 671 et seq.) is redesignated as “Subtitle F—Temporary Assistance for Needy Families”.

(e) Cross-Reference.—Each cross-reference to “Subtitle C” shall be redesignated as “Subtitle D”. For purposes of this section, chapter 1 of title XIX (42 U.S.C. 601 et seq.) shall continue to be known as “Subtitle C—Child Support Services”.

(f) Cross-Reference to Subtitle C.—Each cross-reference to “Subtitle D” shall be redesignated as “Subtitle E”. For purposes of this section, chapter 3 of title XIX (42 U.S.C. 661 et seq.) shall continue to be known as “Subtitle D—Income Maintenance”.

(g) Cross-Reference to Subtitle E.—Each cross-reference to “Subtitle E” shall be redesignated as “Subtitle F”. For purposes of this section, chapter 4 of title XIX (42 U.S.C. 671 et seq.) shall continue to be known as “Subtitle E—Health Coverage”.

(h) Cross-Reference to Subtitle F.—Each cross-reference to “Subtitle F” shall be redesignated as “Subtitle G”. For purposes of this section, chapter 5 of title XIX (42 U.S.C. 681 et seq.) shall continue to be known as “Subtitle F—Temporary Assistance for Needy Families”.

(i) Cross-Reference to Subtitle G.—Each cross-reference to “Subtitle G” shall be redesignated as “Subtitle H”. For purposes of this section, chapter 6 of title XIX (42 U.S.C. 6901 et seq.) shall continue to be known as “Subtitle G—Medicaid Coverage”.

(j) Cross-Reference to Subtitle H.—Each cross-reference to “Subtitle H” shall be redesignated as “Subtitle I”. For purposes of this section, chapter 7 of title XIX (42 U.S.C. 701 et seq.) shall continue to be known as “Subtitle H—Supplemental Security Income”.
(A) CURRENT SUPPORT PAYMENTS.—To the extent that the amount so collected does not exceed the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected to the family.

(B) PAYMENTS OF ARREARAGES.—To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:

(1) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

(i) PRE-OCTOBER 1997.—The provisions of this section (other than subsection (bb)) shall apply on and after the date of enactment of section 12302 of the Personal Responsibility and Work Opportunity Act of 1995.

(ii) DURING THE DEVELOPMENT OF THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

(A) IN GENERAL.—The State shall determine whether the family ceased to receive assistance on the date that the family was last reported as receiving assistance or the date that the family was last known to be receiving assistance, whichever occurs later.

(B) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

(i) ACCRUED DURING OCTOBER 1995 THROUGH MARCH 1996.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(ii) ACCRUED DURING THE YEAR 1996 OR ANY YEAR FOLLOWING.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(iii) ACCRUED DURING THE YEAR 1997 OR ANY YEAR FOLLOWING.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(C) DISTRIBUTION WITHIN FEDERAL LAW.—

(A) IN GENERAL.—In the case of a family that is receiving assistance on the date of this section's enactment, the State shall distribute to the family the amount so collected.

(B) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

(i) ACCRUED DURING OCTOBER 1995 THROUGH MARCH 1996.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(ii) ACCRUED DURING THE YEAR 1996 OR ANY YEAR FOLLOWING.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(iii) ACCRUED DURING THE YEAR 1997 OR ANY YEAR FOLLOWING.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(ii) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

(A) IN GENERAL.—The State shall distribute to the family the amount so collected.

(B) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

(i) ACCRUED DURING OCTOBER 1995 THROUGH MARCH 1996.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(ii) ACCRUED DURING THE YEAR 1996 OR ANY YEAR FOLLOWING.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(iii) ACCRUED DURING THE YEAR 1997 OR ANY YEAR FOLLOWING.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(C) DISTRIBUTION WITHIN FEDERAL LAW.—

(A) IN GENERAL.—In the case of a family that is receiving assistance on the date of this section's enactment, the State shall distribute to the family the amount so collected.

(B) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

(i) ACCRUED DURING OCTOBER 1995 THROUGH MARCH 1996.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(ii) ACCRUED DURING THE YEAR 1996 OR ANY YEAR FOLLOWING.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(iii) ACCRUED DURING THE YEAR 1997 OR ANY YEAR FOLLOWING.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(3) DISTRIBUTION OF THE REMAINDER TO THE FAMILY—

(A) IN GENERAL.—The State shall distribute the amount so collected to the family.

(B) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—

(i) ACCRUED DURING OCTOBER 1995 THROUGH MARCH 1996.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(ii) ACCRUED DURING THE YEAR 1996 OR ANY YEAR FOLLOWING.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(iii) ACCRUED DURING THE YEAR 1997 OR ANY YEAR FOLLOWING.—At the prescribed rates, the State shall distribute the amount so collected to the family.

(4) STUDY AND REPORT.—Not later than October 1, 1998, the Secretary shall report to the Congress the Secretary's findings with respect to—

(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;

(B) whether early implementation of a pre-assistance arrearage program by some states has been effective in moving people off of welfare and keeping them off of welfare;

(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Act of 1995 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.

(B) CONTINUATION OF ASSIGNMENTS.—Any rights to support obligations, which were assigned under section 455, except that an application or other request to continue services shall not be required of such a family and section 454(b)(6)(B) shall not apply to the family.

(C) EFFECTIVE DATE.—The amendments made by this section shall be effective on October 1, 1996, or earlier at the State's option.
"(A) each case in which services are being provided by the State agency under the State plan approved under this part; and

"(B) each support order established or modified in the current October 1 report.

"(2) LINKING OF LOCAL REGISTRIES.—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.

"(3) USE OF STANDARDIZED DATA ELEMENTS.—Such records shall use standardized data elements (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification codes), and contain such other information (such as on-case status) as the Secretary may require.

"(4) PAYMENT RECORDS.—Each case record in the State with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrears, interest or late payment penalties, and fees) due or overdue under the order;

"(B) any amount described in subparagraph (A) that has been collected;

"(C) the distribution of such collected amounts;

"(D) the birth date of any child for whom the order is in effect, or to whom the order relates; and

"(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).

"(5) UPDATING AND MONITORING.—The State agency operating the automated system required by this section shall promptly establish and maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from comparison with Federal, State, or local sources of information;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(6) INTERSTATE AND INTERAGENCY COMPARISONS AND OTHER DISCLOSURES OF INFORMATION.—The State shall use the automated system required by this section to extract information from (at such times, and in such forms or formats, as may be required by the Secretary), to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 453A(h), of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:

"(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—The Secretary, according to the Federal Case Registry of Child Support Orders established under section 453(h) and (update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchanging information with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY FAMILY ASSISTANCE AND MEDIGRANT AGENCIES.—Exchanging information with State agencies (of the State and of other States) administering programs funded under part A, programs operated under State plans under title XXI, and other programs designated by the Secretary, as necessary to permit State agency responsibilities under this part and under such programs.

"(4) INTRASTATE AND INTERSTATE INFORMATION COMPARISONS.—Exchanging information with other State agencies, and other State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this section.

"SECTION 12312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

"(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 651) and sections 12301(b) and 12303(a) of this Act, is amended—

"(1) by striking ‘‘and’’ at the end of paragraph (25);

"(2) by striking the period at the end of paragraph (26) and inserting ‘‘; and’’; and

"(3) by adding after paragraph (26) the following new paragraph:

"(27) provide that, on and after October 1, 1998, the State agency will—

"(A) operate a State disbursement unit in accordance with section 454B; and

"(B) have sufficient State staff (consisting of State employees) and (at State option) contractors reporting directly to the State agency to—

"(i) maintain and operate a unit (including carrying out the automated data processing responsibilities described in section 454A(g)); and

"(ii) take such action as is described in section 466(c)(1) in appropriate cases.’’.

"(b) ESTABLISHMENT OF STATE DISBURSEMENT UNIT.—Part D of title IV (42 U.S.C. 651±669), as amended by sections 12301(b) and 12303(a) of this Act, is amended by inserting after section 454A the following new section:

"SECTION 454B. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

"(a) STATE DISBURSEMENT UNIT.—

"(1) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be known as the 'State disbursement unit') for the collection and disbursement of payments under support orders in all cases being enforced by the State pursuant to section 454A.

"(2) OPERATION.—The State disbursement unit shall be operated—

"(A) directly by the State agency (or 2 or more State agencies established under section 454A, as added by section 12344(a)(2) and as amended by section 12303(a) of this Act, to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency to—

"(B) coordinate the collection and disbursement of support payments, including procedures described in section 454A.

"(3) LINKING OF LOCAL DISBURSEMENT UNITS.—The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section, if the Secretary agrees that the system will not cost more nor take more time to establish or operate than a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.

"(B) REQUIRED PROCEDURES.—The State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology, to the maximum extent feasible, to facilitate, monitor, and economical, for the collection and disbursement of support payments, including procedures described in section 454A.

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States; and

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent.

"(c) TIMELINESS OF SUPPORT PAYMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the State disbursement unit shall dis-

tribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided.

"(2) PERMISSIVE RETENTION OF ARREAREARS.—The State disbursement unit may delay the dis-
"(A) EMPLOYEE.—The term `employee'—

(ii) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

(iii) includes an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to subsection (a) by such employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(B) PROCEDURES.—

(i) IN GENERAL.—The term `employee' has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

(ii) LABOR ORGANIZATION.—The term `labor organization' has the meaning given such term in section 2(5) of the National Labor Relations Act, and includes any entity (also known as a `hiring hall') which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer.

(iii) "EMPLOYER INFORMATION.—

(1) REPORTING REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such reports will be transmitted to which the employer will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employers designates for the purpose of sending reports.

(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting to the National Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

(2) TIMING OF REPORT.—Each State may provide by regulation or procedure that the report described in subparagraph (A) shall be made not later than 20 days after the date the employer hires the employee.

(C) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W-4 form or, at the option of the employer, an equivalent form, and may be transmitted by 1st class mail, magnetically, or electronically.

(D) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall be less than—

(1) $25; or

(2) $500, if under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

(e) ENTRY OF EMPLOYER INFORMATION.—

Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b)."
part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.

7. CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

SEC. 12315. LOCATOR INFORMATION FROM INTER-STATE NETWORKS.

Section 466(e)(3) (42 U.S.C. 666(e)(3)) is amended by adding at the end the following new paragraph: "(B) LOCATOR INFORMATION FROM INTER-STATE NETWORKS.—Procedures to ensure that all Federal, State, and local agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.

SEC. 12316. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows "subsection (c)" and inserting "for the purpose of establishing the existence, establishing, the amount of, modifying, enforcing, child support obligations, or enforcing child custody or visitation orders;";

(2) by striking the section designation following the words "federal locator services" and inserting "the federal parent locator service";

(3) in paragraph (1) by striking the word "and" before "or to the amount of any assets of, or debts owed by (including rights to or enrollment in group other income) from, and benefits of, employment (or numbers), most recent address, and the birth date of each such individual," and

(b) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (d) of this section, is amended by adding at the end the following new subsections:

(i) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—

(1) IN GENERAL.—Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the purpose of this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the "Federal Case Registry") which shall contain abstracts of support orders and other information described in paragraph (2) with respect to each case in which the Secretary determines to be likely to contribute to achieving the purposes of this part or this subsection.

(2) CASE INFORMATION.—The information referred to in paragraph (1) with respect to a case shall include such information as the Secretary determines to be necessary to carry out the purposes of this part or this subsection, including the names, social security numbers or other uniform identification numbers, and State case identification numbers to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case.

(ii) NATIONAL DIRECTORY OF NEW HIRES.—

(1) IN GENERAL.—In order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the purpose of this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the "National Directory") which shall contain the information supplied pursuant to section 453(a)(2).

(2) ENTRY OF DATA.—Information shall be entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453(a)(2).

(iii) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information maintained within the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3907 of such Code, and verifying a claim with respect to employment in a tax return.

(iv) LIST OF MULTISTATE EMPLOYERS.—The Secretary shall maintain within the National Directory of New Hires a list of multistate employers who report information regarding newly hired employees pursuant to section 453(a)(2)(B), and the State which such employers are required to furnish the information to the Secretary.

(v) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—

(1) IN GENERAL.—The Secretary shall maintain within the National Directory of New Hires a list of child support orders and enforcement actions taken in connection with the orders, which list shall include the following information:

(A) The name, social security number, and birth date of each such individual.

(B) The employer identification number of each such employer.

(ii) INFORMATION COMPARISONS AND DISCLOSURES OF INFORMATION IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—To the extent and with appropriate safeguards, the Secretary shall determine to be reasonable, appropriate, and necessary to effectively in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A, the Secretary shall—

(a) compare the information in each component of the Federal Parent Locator Service maintained under this title against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and

(b) disclose information in such registries to such State agencies.

(vii) PROVISION OF NEW HIRE INFORMATION TO THE SOCIAL SECURITY ADMINISTRATION.—The National Directory of New Hires shall provide the Commissioner of Social Security with all information in the National Directory, which shall be used to determine the accuracy of payments under the supplemental security income program for individuals under title XVI, and in connection with benefits under title II.

(viii) RESEARCH.—The Secretary may provide access to information maintained in the National Directory of New Hires for research purposes as authorized under section 453(a) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

(v) FEES.—

(I) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in this section.

(ii) FOR INFORMATION FROM STATE DIRECTORIES OF NEW HIRES.—The Secretary shall reimburse State agencies for the costs incurred by State agencies in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining the information).

(iii) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—A State or Federal agency that receives information from the Secretary pursuant to this part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.

SEC. 12317. USE OF LOCATOR INFORMATION FOR THIRD-PARTY WELFARE PURPOSES.

(a) IN GENERAL.—The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for such information in accordance with paragraph (b).

(b) VERIFICATION BY SSA.—The Social Security Administration shall verify, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

(1) Personal identifiers, social security number, and birth date of each such individual.

(2) The employer identification number of each such employer.
“(II) RESTRICTION ON DISCLOSURE AND USE.—In the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed in any manner not consistent with this section, subject to section 6303 of the Internal Revenue Code of 1986.

“(m) INFORMATION INTEGRITY AND SECURITY.—(1) The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

(a) ensure the accuracy and completeness of information in the Federal Parent Locator Service, and

(b) protect against unauthorized disclosure of such information.

(2) In general.—Each instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator Service the number and amount of each individual who has been flagged as potentially responsible for a failure to respond to a request for information, and the number of successful or unsuccessful attempts to contact such individual.

(B) D I S CLOSURE TO CERTAIN AGENTS.—(A) In general.—Paragraph (6) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local support enforcement agencies) is amended by inserting at the end of such paragraph: "(B) disclosure to certain agents.—(I) the address and social security account number (or numbers) of an individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by any child support enforcement agency to any agent of such agency which is acting on behalf of such agency to carry out the purposes described in subparagraph (C)."

(2) CONFORMING AMENDMENTS.—(I) Paragraph (6) of section 603(a) of such Code is amended by striking "(II)(12)" and inserting "(II)(12) and (12) of subsection (I)(ii)."

(II) Paragraph (C) of section 603(f)(1) of such Code is amended by striking "(a)" and inserting "(a) and (b)."

(3) The material following subparagraph (f) of section 6103(l) of such Code is amended by striking subparagraph (A) and inserting "(A) the address and social security account number (or numbers) of an individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by any child support enforcement agency to any agent of such agency which is acting on behalf of such agency to carry out the purposes described in subparagraph (C)."

(III) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(IV) Subparagraph (C) of section 6103(l)(6)(A) of such Code, as redesignated by subsection (a), is amended as read to follow: "(b) CONFORMING AMENDMENTS.—(I) Paragraph (6) of section 603(a) of such Code is amended by striking "(II)(12)" and inserting "(II)(12) and (12) of subsection (I)."

(II) Paragraph (C) of section 603(f)(1) of such Code is amended by striking "(a)" and inserting "(a) and (b)."

(V) The material following subparagraph (f) of section 6103(l) of such Code is amended by striking subparagraph (A) and inserting "(A) the address and social security account number (or numbers) of an individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by any child support enforcement agency to any agent of such agency which is acting on behalf of such agency to carry out the purposes described in subparagraph (C)."

(3) RESTRICTION ON DISCLOSURE.—Information may be disclosed under this paragraph only if the Secretary of the Treasury finds that the disclosure is necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

(2) The material following subparagraph (f) of section 6103(l) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(3) Section 6103(f)(1) of such Code is amended by striking "(a)" and inserting "(a) and (b)."

(4) The material following subparagraph (f) of section 6103(l) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(5) The material following subparagraph (f) of section 6103(l) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(1) Paragraph (6) of section 603(a) of such Code is amended by striking "(II)(12)" and inserting "(II)(12) and (12) of subsection (I)."

(II) Paragraph (C) of section 603(f)(1) of such Code is amended by striking "(a)" and inserting "(a) and (b)."

(IV) The material following subparagraph (f) of section 6103(l) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(V) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VI) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VII) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VIII) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(1) Paragraph (6) of section 603(a) of such Code is amended by striking "(II)(12)" and inserting "(II)(12) and (12) of subsection (I)."

(II) Paragraph (C) of section 603(f)(1) of such Code is amended by striking "(a)" and inserting "(a) and (b)."

(IV) The material following subparagraph (f) of section 6103(l) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(V) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VI) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VII) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VIII) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(1) Paragraph (6) of section 603(a) of such Code is amended by striking "(II)(12)" and inserting "(II)(12) and (12) of subsection (I)."

(II) Paragraph (C) of section 603(f)(1) of such Code is amended by striking "(a)" and inserting "(a) and (b)."

(IV) The material following subparagraph (f) of section 6103(l) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(V) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VI) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VII) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VIII) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(1) Paragraph (6) of section 603(a) of such Code is amended by striking "(II)(12)" and inserting "(II)(12) and (12) of subsection (I)."

(II) Paragraph (C) of section 603(f)(1) of such Code is amended by striking "(a)" and inserting "(a) and (b)."

(IV) The material following subparagraph (f) of section 6103(l) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(V) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VI) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VII) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VIII) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(1) Paragraph (6) of section 603(a) of such Code is amended by striking "(II)(12)" and inserting "(II)(12) and (12) of subsection (I)."

(II) Paragraph (C) of section 603(f)(1) of such Code is amended by striking "(a)" and inserting "(a) and (b)."

(IV) The material following subparagraph (f) of section 6103(l) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(V) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VI) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VII) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."

(VIII) Section 6103(l)(6)(A) of such Code is amended by striking "subsection (l)(12)" and inserting "subsection (l)(12) and (12) of subsection (I)."
in subsection (d), by inserting “(A) by inserting “individual” before “contest-
ant” each place such term appears; and

(b) by striking “subsection (e)” and inserting “subsections (e) and (f)”;

(6) in subsection (e), by striking “make a modification of a child support order with re-
spect to a child that is made” and inserting “modify a child support order issued”;

(7) in subsection (e)(1), by inserting “pursuant to subsection (ii)” before the semicolon;

(8) in paragraph (c), by inserting “individual” before “contest-
ant”;

(9) by redesigning subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the follow-
ing new subsection:

“(f) RECOGNITION OF CHILD SUPPORT OR-
DERS.—If 1 or more child support orders have been
issued in this or another State with regard to the
same obligor and child, a court shall apply the
following rules in determining which order to
recognize for purposes of continuing, exclu-
sive jurisdiction and enforcement:

(1) If only 1 court has issued a child support
order, the order of that court must be recog-
nized.

(2) If 2 or more courts have issued child sup-
port orders for the same obligor and child, and
only 1 of the courts would have continuing, ex-
clusive jurisdiction under this section, the order
of that court must be recognized.

(3) If 2 or more courts have issued child sup-
port orders for the same obligor and child, and
more than 1 of the courts would have continu-
ing, exclusive jurisdiction under this section, an
order issued in the court that has continuing
jurisdiction over the nonmovant for the case to be
transferred to the caseload of such other State;
and

(D) the State shall maintain records of—

(i) the number of such requests for assistance
received by the State;

(ii) the number of cases for which the State
collected support in response to such a request; and

(iii) the amount of such collected support.”.

SEC. 12324. USE OF FORMS IN INTERSTATE EN-
FORCEMENT.

(a) PROMULGATION.—Section 452(a) (42 U.S.C.

652(a)) is amended—

(1) by striking “and” at the end of paragraph (9);

(2) by striking the period at the end of subpara-
graph (10) and inserting “; and”;

and

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

“(11) not later than June 30, 1996, after con-
sulting with the State directors of programs
under this part, promulgate forms to be used
by States in interstate cases for—

(A) collection of child support through in-
come withholding;

(B) imposition of liens; and

(C) administrative subpoenas.

(b) USE BY STATES.—Section 454(b) (42 U.S.C.

654(b)) is amended—

(1) by striking “and” at the end of subpara-
graph (C);

(2) by inserting “and” at the end of subpara-
graph (D); and

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

“(E) no later than October 1, 1996, in using
the forms promulgated pursuant to section
452(a)(11) for income withholding, imposition
of liens, and issuance of administrative subpoenas
in interstate child support cases.”.

SEC. 12235. STATE LAWS PROVIDING EXPEDITED
PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466

(42 U.S.C. 666), as amended by section 12314 of
this Act, is amended—

(1) in subsection (a)(2), by striking the 1st sen-
tence and inserting the following: “Expedited
administrative and judicial procedures (includ-
ing the procedures specified in subsection (c))
for establishing paternity and for establishing,
modifying, and enforcing support obligations.”;

(2) by inserting after subsection (b) the follow-
ing new subsection:

“(c) EXPEDITED PROCEDURES.—The pro-
cedures specified in this subsection are the follow-
ing:

(1) ADMINISTRATIVE ACTION BY STATE AGEN-
CY.—Procedures which give the State agency
the authority to take the following actions relati-
ging to establishment or enforcement of support
orders, or any other action, order, or request
from any other judicial or administrative tribu-
al, and to recognize and enforce the authority
of State agencies of other States to take the fol-
lowing actions:

(A) GENETIC TESTING.—To order genetic test-

ing for the purpose of paternity establishment as
provided in section 466(a)(5).

(B) FINANCIAL OR OTHER INFORMATION.—To
subpoena any financial or other information
needed to establish, modify, or enforce a support
order, and to impose penalties for failure to re-
spend to such a subpoena.

(C) RESPONSE TO STATE AGENCY REQUEST.—

To require all entities in the State (including
subcontractors, agents, and employees of third par-
ties employed or doing work in the State) to pro-
vide promptly, in response to a request by the
State agency of that or any other State adminis-
tering a program under this part, the information
in the data bases of the State; and

(D) ACCESS TO CERTAIN RECORDS.—To ob-
tain access, subject to safeguards on privacy and in-
formation security, to the following records (in-
cluding automated access, in the case of records
maintained in automated data bases):

(i) Records of other State and local govern-

ment agencies, including—

(1) vital statistics (including records of mar-
riage, birth, and divorce);

(2) State and local tax and revenue records
(including information on residence address, em-
ployer, income and assets);

(3) records concerning real and titled per-
sonal property;

(4) records of occupational and professional
licenses, and records concerning the ownership
and control of corporations, partnerships, and
other business entities;

(5) employment security records;

(6) records of agencies administering public
assistance programs;

(7) records of the motor vehicle depart-
ment; and

(8) corrections records.

(ii) Certain records held by private entities,
including—

(1) customer records of public utilities and
television companies; and

(2) 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 fi-


nancial institutions (subject to limitations on li-
ability of such entities arising from affording
access), as provided in section 466(a)(5).

(iii) Not later than June 30, 1996, after con-
sulting with the State directors of programs
under this part, promulgate forms to be used
by States in interstate cases for—

(A) collection of child support through in-
come withholding;

(B) imposition of liens; and

(C) administrative subpoenas.

(b) USE BY STATES.—Section 454(b) (42 U.S.C.

654(b)) is amended—

(1) by inserting “and” at the end of subpara-
graph (C);

(2) by inserting “and” at the end of subpara-
graph (D); and

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

“(E) no later than October 1, 1996, in using
the forms promulgated pursuant to section
452(a)(11) for income withholding, imposition
of liens, and issuance of administrative subpoenas
in interstate child support cases.”.
(ii) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and

(iii) settlements, payments, and lotteries.

(2) (aa) Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

(b) A UTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 12344 and amended by sections 12311 and 12312(c) of this Act, is amended by adding at the end the following new subsection:

(3) to a domestic relations order and the State laws concerning paternity establishment.

(a) State laws required.—Section 466(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1145(a)(2)) is amended by inserting after the period the following:

``(ii) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

SEC. 12331. STATE LAWS CONCERNING PATER-

(a) State laws required.—Section 466(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1145(a)(2)) is amended by inserting after the period the following:

``(ii) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

SEC. 12331. STATE LAWS CONCERNING PATER-
"[G] PRESCRIPTION OF PATERNITY IN CERTAIN CASES.—Procedures which create a rebuttable presumption of paternity upon genetic testing results individually establish the probability that the alleged father is the father of the child.

(H) DEFAULT ORDERS.—Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

(I) TIMELY JUDGMENT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to a jury trial.

(J) TEMPORARY SUPPORT ORDER BASED ON GENETIC TESTING.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative determination of paternity, if there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring production of the original tests and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

(L) CLAIMING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

(M) FILING OF ACKNOWLEDGMENTS AND ADJUDICATIONS IN STATE REGISTRY OF BIRTH RECORDS.—Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.

(N) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting "and", and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent and, after consultation with the States, other common elements as determined by such designee before the semicolon.

(O) CONFORM AMENDMENT.—Section 456 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and" and SEC. 12332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

Section 455 (42 U.S.C. 665(3)) is amended by inserting "and will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate" before the semicolon.

SEC. 12333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF TEMPORARY SUPPORT.

Section 456 (42 U.S.C. 665), as amended by sections 12301(b), 12303(a), 12312(a), and 12313(a) of this Act, is amended—

(A) by striking "and" at the end of paragraph (27);

(B) by striking the period at the end of paragraph (28) and inserting "; and";

(C) by inserting after paragraph (28) the following new paragraph:

(29) provide that the State agency responsible for administering the State plan shall determine the extent to which the program is operated in compliance with this section; and

(B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary and data calculations concerning the levels of accomplishment and rates of improvement with respect to applicable performance indicators (including IV-D paternity establishment percentages to the extent necessary for purposes of sections 452(g) and 458).

(F) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

(4)(A) review data and calculations transmitted to the State agency under section 45415(b) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;

(B) review annual reports submitted pursuant to section 45415(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and

(C) conduct audits, in accordance with Government auditing standards of the Comptroller General of the United States, of the program for years ending in the year 1999.

(iv) (ii) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of the program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating performance indicators for purposes of subsection (g) of this section and section 458;

[iii] the adequacy of the financial management of the program for years ending in the year 1999 and (iv) (ii) after the date of enactment of this Act and (iv) (ii) every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of the program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating performance indicators for purposes of subsection (g) of this section and section 458;

(iii) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of the program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating performance indicators for purposes of subsection (g) of this section and section 458;

(ii) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of the program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating performance indicators for purposes of subsection (g) of this section and section 458;

(iii) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of the program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating performance indicators for purposes of subsection (g) of this section and section 458;
"(ii) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and
"(iii) for such other purposes as the Secretary may determine.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of this Act.

SEC. 12343. REQUIRED REPORTING PROCEDURES.

(a) Establishment.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish uniform definitions (including those necessary to enable the establishment of State automated systems to comply with the requirements of this part relating to expedited procedures) to be followed in applying for aid under such procedures" before the semicolon.

(b) State Plan Requirement.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(a), 12313(a), and 12333 of this Act, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (29) and inserting "; and";

(3) by striking paragraph (30) and inserting the following new paragraph:

"(30) that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information required to establish procedures to be followed by States for the establishment percentage for the State for each fiscal year; and

(4) have in place safeguards that are fully accounted for; and

(5) level of automation needed to meet the automated data processing requirements of such part.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2252, Public Law 100–482) is amended by adding at the end the following new subsection:

"(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the amount paid to the Secretary for operation of section 415(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 654) for fiscal year 1997 and each fiscal year thereafter, to meet costs incurred by the Secretary for—

(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part; (including technical assistance concerning State automated systems required by this part); and

(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.

(d) Special Federal Matching Rate for Development Costs of Automated Systems.—(1) In general.—Section 454(a)(24) (42 U.S.C. 654(a)(24)), as amended by section 12303(a)(1) of this Act, is amended to read as follows:

"(24) that the State will have in effect an automated data processing and information retrieval system—

(A) by October 1, 1997, which meets all requirements of this part enacted on or before the date of enactment of the Family Support Act of 1988, and

(B) by October 1, 1999, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, except that such deadline shall be extended by 1 day for each calendar quarter in which the Secretary fails to meet the deadline imposed by section 12344(a)(3) of the Personal Responsibility and Work Opportunity Act of 1995.

(b) Special Federal Matching Rate for Development Costs of Automated Systems.—(1) In general.—Section 454(a)(24) (42 U.S.C. 654(a)(24)), as amended by section 12303(a)(1) of this Act, is amended to read as follows:

"(24) that the State will have in effect an automated data processing and information retrieval system—

(A) by October 1, 1997, which meets all requirements of this part enacted on or before the date of enactment of the Family Support Act of 1988, and

(B) by October 1, 1999, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, except that such deadline shall be extended by 1 day for each calendar quarter in which the Secretary fails to meet the deadline imposed by section 12344(a)(3) of the Personal Responsibility and Work Opportunity Act of 1995.

(c) Special Federal Matching Rate for Development Costs of Automated Systems.—(2) Research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.

(d) Special Federal Matching Rate for Development Costs of Automated Systems.—(3) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 415(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 654) for fiscal year 1997 and each fiscal year thereafter, to meet costs incurred by the Secretary for—

(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part; (including technical assistance concerning State automated systems required by this part); and

(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.

"(2) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 415(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 654) for fiscal year 1997 and each fiscal year thereafter, to meet costs incurred by the Secretary for—

(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part; (including technical assistance concerning State automated systems required by this part); and

(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.

"(2) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 415(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 654) for fiscal year 1997 and each fiscal year thereafter, to meet costs incurred by the Secretary for—

(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part; (including technical assistance concerning State automated systems required by this part); and

(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.

"(2) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 415(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 654) for fiscal year 1997 and each fiscal year thereafter, to meet costs incurred by the Secretary for—

(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part; (including technical assistance concerning State automated systems required by this part); and

(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.
section, to the extent such costs are not recovered through user fees."

SEC. 12346. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking "this part" and inserting "this subpart"; and

(B) by adding at the end the following new clauses:

"(i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;"

"(ii) the total amount of child support payments collected as a result of services furnished to individuals receiving services under subsection (a) during a month in the fiscal year; and"

"(iii) with respect to whom a child support payment was received in the month;"

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

"(i) by striking "with the data required under each case separately stated for cases and inserting "separately stated for (1) cases;"

"(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received;"

"(iii) by inserting "or 1922" after "471(a)(17);" and

"(iv) by inserting "before "all other;"

"(B) in each of clauses (i) and (ii), by striking "," and inserting ", and the total amount of such obligations;"

"(C) in clause (iii), by striking "described in", and all that follows and inserting "in which support was collected during the fiscal year;"

"(D) by striking clause (iv); and

"(E) by redesignating clause (v) as clause (iv), and inserting after clause (iii) the following new clauses:

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;"

"(vi) the total amount of support due and unpaid for all fiscal years; and"

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

"(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended—

(A) in subparagraph (H), by striking "and";

"(B) in subparagraph (I), by striking the period and inserting "; and"

; and

(C) by inserting after subparagraph (I) the following new subparagraph (J): "(J) compliance, by State, with the standards established pursuant to subsections (h) and (i)."

(5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (J), as added by paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 12351. SIMULTANEOUS PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended—

"(D) REVIEW AND ADJUSTMENT OF SUPPORT ORDERS UPON REQUEST.—Procedures under which the State shall review and adjust each support order shall not be enforced under this part upon the request of either parent or the State if there is an assignment. Such procedures shall provide the following:

"(1) 3-YEAR CYCLE.—Except as provided in subparagraphs (B) and (C), the State shall re-

view and, as appropriate, adjust the support order every 3 years, taking into account the best interests of the child involved.

"(2) METHODS OF ADJUSTMENT.—The State may elect to reexamine a support order, and, as appropriate, adjust an order pursuant to clause (i) by—

"(I) reviewing and, if appropriate, adjusting the order in accordance with the guidelines established pursuant to section 467(a); if the amount of the order differs from the amount that would be awarded in accordance with the guidelines; or

"(II) applying a cost-of-living adjustment to the order in accordance with a formula developed by the State and permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for appropriate, adjust the order in accordance with the child support guidelines established pursuant to section 467(a).

"(3) NO PROOF OF CHANGE IN CIRCUMSTANCES NECESSARY.—Any adjustment under this subparagraph (A) shall be made without a requirement for proof or showing of a change in circumstances.

"(3) AUTOMATED METHOD.—The State may use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, confirm the facts considered for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under the threshold established by the State.

"(4) REQUEST FOR MODIFICATION OF SUPPORT ORDER.—On request of either parent, subject to such an order or of any State child support enforcement agency, the State shall modify the order in accordance with the guidelines established pursuant to section 467(a) based on a substantial change in the circumstances of either parent.

"(5) NOTICE OF RIGHT TO REVIEW.—The State shall provide notice once every 3 years to the parents subject to such an order informing them of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order.

SEC. 12352. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

"(4) In response to a request by the head of a State or local governmental child support agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

"(B) the parent of the minor and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

"(1) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE.—

"(1) DISCLOSURE BY STATE OFFICER OR EMPLOYEE.—If any person knowingly, or by reason of negligence, discloses a financial record of an individual to a State child support enforcement agency which obtains a financial record of an individual pursuant to subsection (b) or (c), such individual may bring a civil action for damages against such person in a district court of the United States.

"(2) LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).

"(2) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(i) the greater of—

"(II) the sum of—

"(A) $1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

"(B) the sum of—

"(i) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

"(ii) in the case of a willful disclosure, a penalty which is the result of gross negligence, punitive damages; plus

"(iii) the costs (including attorney's fees) of the action.

"(1) DEFINITIONS.—For purposes of this section—

"(1) FINANCIAL INSTITUTION.—The term "financial institution" means—

"(A) a depository institution, as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

"(B) an institution-affiliated party of such a credit union, as defined in section 3(u) of such Act (12 U.S.C. 1813(v));

"(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an insurance-affiliated party of such a credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)); and

"(D) any benefit association, insurance company, or similar entity authorized to do business in the State.

"(2) FINANCIAL RECORD.—The term "financial record" has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).

"(3) STATE CHILD SUPPORT ENFORCEMENT AGENCY.—The term "State child support enforcement agency" means a State agency which administers a State program for establishing and enforcing child support obligations.

"(1) ENFORCEMENT OF SUPPORT ORDERS.

"(1) COLLECTION OF FEES.—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—

"(1) MODIFICATION OF SUPPORT ORDERS.
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(1) by striking “and” at the end of paragraph (3); (2) by striking the period at the end of paragraph (4) and inserting “;” and “;”;

(3) by striking at the end the following new paragraph:

(5) no additional fee may be assessed for assistance.

(6) by inserting in paragraph (13), “previously” immediately after “harmful to

(7) by striking “Secretary of Health, Education, and Welfare” each place it appears and inserting “Secretary of Health and Human Servic¬

(8) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 12362. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITY.—Section 459 (42 U.S.C. 659) is amended to read as follows:

“SEC. 459. CONSENT BY THE UNITED STATES TO ENFORCEMENT OF CHILD SUPPORT OR ALIMONY.

“(a) Consent to Support Enforcement.—Notwithstanding any other provision of law, including this Act and section 3501 of title 38, United States Code, effective January 1, 1975, monies (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual’s income withholding, garnishment, and similar proceedings for enforcement of child support or alimony obligations.

“(b) Consent to Requirements Applicable to Private Person.—With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under State plan approved under this part or by an individual, to enforce the legal obligations of the individual to provide child support or alimony.

“(c) Designation of Agent; Response to Notice or Process.—(1) Designation of Agent.—The head of each agency subject to this section shall—

“(A) designate an agent or agents to receive orders and notices of process in matters relating to child support or alimony; and

“(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

“(2) Response to Notice or Process.—If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or notice of process, with respect to an individual’s child support or alimony obligations, the agent shall—

“(A) as soon as possible (but not later than 15 days), deliver the notice or process (written notice of process, together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

“(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466; and

“(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or notice of process, respond to the order, process, or notice of process.

“(2) Designation of Agent.—The head of each agency subject to this section shall designate an agent or agents to receive orders and notices of process in matters relating to child support or alimony; and

“(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or notice of process, respond to the order, process, or notice of process.

“(3) the judicial branch of the Federal Government, and the governments of the territories and possessions of the United States.

“(h) Moneys Subject to Process.—(1) In General.—Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

“(A) consist of—

“(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or other similar amounts (including severance pay, sick pay, and incentive pay); and

“(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments.

“(B) do not include any payment—

“(i) by way of reimbursement or otherwise, to workers who have suffered a single loss due to the employment of the individual; or

“(ii) as allowances for members of the unified service payroll pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretary of Defense.

“(2) CIVILIAN AND CERTAIN MILITARY EMPLOYEES.—In determining the amount of moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

“(A) are owed by the individual to the United States;

“(B) are required by law to be, and are, deducted from the remuneration of the individual for any Federal program, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

“(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would have been withheld if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

“(D) are deducted as health insurance premiums;

“(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

“(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

“(3) DEFINITIONS.—For purposes of this section—

“(3) United States.—The term ‘United States’ includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

“(4) Child Support or Alimony.— ‘Child support or alimony’, when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a court or administrative order of competent jurisdiction, for the support and maintenance of a child, including a child who has attainted the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support; child care, maintenance, and educational expenses, and which may include other related costs and fees, interest and penalties, income withholding, attorney’s fees, and other relief.

“(5) Other Permits.—(A) In General.—The term ‘alimony’, when used in reference to the legal obligations of an

“(B) are owed by the individual to the United States;

“(B) are required by law to be, and are, deducted from the remuneration of the individual for any Federal program, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

“(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would have been withheld if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

“(D) are deducted as health insurance premiums;

“(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

“(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

“(3) DEFINITIONS.—For purposes of this section—

“(3) United States.—The term ‘United States’ includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

“(4) Child Support or Alimony.— ‘Child support or alimony’, when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a court or administrative order of competent jurisdiction, for the support and maintenance of a child, including a child who has attainted the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support; child care, maintenance, and educational expenses, and which may include other related costs and fees, interest and penalties, income withholding, attorney’s fees, and other relief.

“(5) Other Permits.—(A) In General.—The term ‘alimony’, when used in reference to the legal obligations of an
individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

(1) EXCEPTIONS.—Such term does not include—

(i) any child support; or

(ii) any transfer of property or value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

(2) PRIVATE PERSON.—The term 'private person' means a person who does not have sovereign immunity or privilege which causes the person not to be subject to legal process.

(3) LEGAL PROCESS.—The term 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment—

(A) which is issued by—

(i) by inserting 'Administrative agency of

competent jurisdiction in any State, territory, or possession of the United States;

(ii) a court or an administrative agency of any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

(iii) an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to a local law;

(B) which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual, and which requires the movor to make payment to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments;

(4) NOTICE.—The Secretary of Defense should make information referred to in this subsection available to court service agencies established under section 459 of the Social Security Act.

(5) AVAILABILITY OF LOCATOR INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(6) TYPE OF ADDRESS.—(A) the leave is needed for the member to attend a court hearing or trial; or

(B) the member to provide child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary concerned.

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS TO STATES.—Sections 461 and 462 of title 10, United States Code, are amended by inserting after subsection (h) the following new subsection:

(1) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not apply to section 459 of such Act.

(2) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 408(d) of such title is amended by adding at the end the following new sentence: "In the case of a spouse or former spouse who, pursuant to section 407(a)(4) of the Social Security Act (42 U.S.C. 671(a)(4)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.

(4) BILLS OF DEDUCTIONS.—The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the 1st pay period that begins after such 30-day period.

SEC. 12364. VOIDING OF FRAUDULENT TRANSFERS.

Section 466 (42 U.S.C. 666), as amended by sections 321(b) and 322 of this Act, is amended by inserting after the last paragraph the following new paragraph:

(1) U.S. Code References:

(H) LAWS VOIDING FRAUDULENT TRANSFERS.—In order to satisfy section 542(a)(1), each State must have in effect—

(A) the Uniform Fraudulent Conveyance Act of 1981; and

(B) the Uniform Transfer of Unclaimed Property Act of 1988.

(2) ANOTHER LAW.—Specifying indicia of fraud which create a prima facie case that a debtor...
transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

(ii) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

(iii) only if such parent has furnished evidence satisfactory to the State that the entity is a consumer reporting agency (as so defined).

SEC. 12368. LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:

"(4) Liens.—Procedures under which—

(i) liens arise by operation of law against real and personal property for amounts due support owed by a noncustodial parent who resides or owns property in the State; and

(ii) the State may give a credit to liens described in subparagraph (A) arising in another State, without registration of the underlying order.

SEC. 12369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, and 12365 of this Act, is amended by adding at the end the following new section:

"SEC. 459A. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) Authority for international agreements.—Part D of title IV, as amended by section 362(a) of this Act, is amended by adding after section 459 the following new section:

"SEC. 459A. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) Authority for declarations.—

(1) Declaration.—The Secretary of State, with the concurrence of the Secretary of Health and Human Services, is authorized to declare any foreign country (or a political subdivision thereof) to be a foreign reciprocating country if the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed by obligors who are residents of the United States, and such procedures are substantially in conformity with the standards prescribed under subsection (b).

(2) Revocation.—A declaration with respect to a foreign country made pursuant to paragraph (1) may be revoked by the Secretaries of State and Health and Human Services if the Secretary of State, after consultation with the Secretary of Health and Human Services, determines that—

(A) the procedures established by the foreign nation regarding the establishment and enforcement of duties of support have been so changed, or the foreign nation’s implementation of such procedures is so unsatisfactory, that such procedures do not meet the criteria for such a declaration; or

(B) continued operation of the declaration is not consistent with the purposes of this part.

(3) For purposes of this subsection, an application for a declaration under paragraph (1) may be made in the form of an international agreement, in connection with an international agreement or corresponding foreign declaration, or on a unilateral basis.

(b) Standards for foreign support enforcement procedures.—

(1) General rule.—Child support enforcement procedures of a foreign country which may be the subject of a declaration pursuant to subsection (a)(1) shall include the following elements:

(A) The foreign country (or political subdivision thereof) has in effect procedures, available and utilized to the maximum extent feasible, in which each such financial institution is required to provide for

(i) the establishment and enforcement of orders of support for children and custodial parents, including procedures for collection and appropriate distribution of support payments under such orders.

(ii) for enforcement of orders to provide support to children and custodial parents, including procedures for collection and appropriate distribution of support payments under such orders.

(B) The procedures described in subparagraph (A), including legal and administrative assistance, are provided to residents of the United States at no cost.

(C) An agency of the foreign country is designated as a Central Authority responsible for—

(I) facilitating child support enforcement in cases involving residents of the foreign nation and residents of the United States; and

(II) ensuring compliance with the standards established pursuant to subsection (a) in cases involving residents of the foreign nation.

(2) Additional elements.—The Secretary of Health and Human Services and the Secretary of State, in consultation with the States, may establish such additional standards as may be considered necessary to further the purposes of this section.

(c) Designation of United States central authority.—It shall be the responsibility of the Secretary of Health and Human Services to facilitate child support enforcement in cases involving residents of the United States and residents of foreign nations that are the subject of a declaration under this section, by activities including—

(I) the development of uniform forms and procedures for use in such cases;

(II) notification of foreign reciprocating country of the State of residence of individuals sought for support enforcement purposes on the basis of information provided by the Federal Parent Locator Service; and

(III) other oversight, assistance, and coordination activities as the Secretary may find necessary and appropriate.

(d) Effect on other laws.—States may enter into reciprocal arrangements for the establishment and enforcement of child support obligations with foreign countries that are not the subject of a declaration pursuant to subsection (a) by the extent consistent with the law.

(b) State plan requirement.—Section 456(a)(4) (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(b), 12313(a), 12333, and 12343(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "and"; and

(3) by adding after paragraph (3) the following new paragraph:

"(4) A provision that any request for services under this part by a foreign reciprocating country or a foreign country with which the State has not established such arrangements as described in section 459a(d)(2) shall be treated as a request by a State;

(5) provide, at State option, notwithstanding paragraph (4) or any other provision of this part, for services under the plan for enforcement of a spousal support order not described in paragraph (4) of such a country (or subdivision thereof); and

(6) provide that no applications will be required from, and no costs will be assessed for such services against, the foreign reciprocating country or foreign country with which the State has not established such arrangements as described in section 459a(d)(2) as a foreign reciprocating country at State option be assessed against the obligor)."

SEC. 12371. FINANCIAL INSTITUTION DATA MATCHES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, and 12365 of this Act, is amended by adding at the end the following new provisions:

"(17) Financial institution data matches.—

(A) In general.—Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State—

(i) to develop and operate, in coordination with such financial institutions, a data match program to identify payments to the maximum extent feasible, in which each such financial institution is required to provide for
each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains such a plan under such State law and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and "(iii) notice of lien or levy, encumbrance or surrender, as the case may be, as set forth in such notice of lien or levy, encumbrance or surrender. The term "financial institution" means any Federal or State bank, commercial savings bank, including savings and loan association, cooperative bank, Federal- or State-chartered credit union, benefit association, insurance company, safe deposit company, money-market mutual fund, or any similar entity authorized to do business in the State; and "(ii) Account. The term "account" means a demand, savings, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

SEC. 12372. ENFORCEMENT OF ORDERS AGAINST PARENTAL OR GRANDPARENTS. Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12233, 12265, 12369, and 12371 of this Act, is amended by adding at the end the following new paragraph:

(a) IN GENERAL. The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate noncustodial parents’ access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative arrangements.

(b) AMOUNT OF GRANT. The amount of the grant to be made to a State under this section for a fiscal year shall be equal to the lesser of:

(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or

(2) the allotment of the State under subsection (c) for the fiscal year.

(c) ALLOTMENTS TO STATES. The allotment of a State for a fiscal year is the amount that bears the same ratio to the amount appropriated for grants under this section for the fiscal year as the ratio of the current reimbursement with respect to fiscal year 1995 of 1 biological parent bears to the total number of such children in all States.

(d) MINIMUM ALLOTMENT. The Administration for Children and Families shall adjust allotments to States under paragraph (a) as necessary to ensure that no State is allotted less than:

(1) $50,000 for fiscal year 1996; or

(2) $100,000 for any succeeding fiscal year.

(e) NO SUPPLANTATION OF STATE EXPENDITURES. A State to which a grant is made under this section shall not use the grant to supplant expenditures by the State for activities specified in subsection (a) which the State, or any Federal government, has been required or has chosen to fund such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

(f) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT. A State shall not be found out of compliance with any requirement enacted by this subtitle if the State is unable to so comply without amending the State constitution until the earlier of:

(1) 1 year after the effective date of the necessary State constitutional amendment; or

(2) 5 years after the date of the enactment of this Act.

Subtitle D—Restricting Welfare and Public Benefits for Aliens

CHAPTER 1—ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS

SEC. 12401. ALIENS WHO ARE NOT QUALIFIED ALIENS INELIGIBLE FOR FEDERAL PUBLIC BENEFITS. (a) IN GENERAL. Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is not a qualified alien (as defined section 12431) is not eligible for any Federal public benefit (as defined in section 12431).

(3)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General’s sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or non-profit private entities; and

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private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources (as defined in subparagraph (a)); (iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS.—Paragraph (1) shall apply to the eligibility of an alien for a program for months beginning on or after January 1, 1997, if, on the date of the enactment of this Act, the alien is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act.

(3) SPECIFIED FEDERAL PROGRAM DEFINED.—For purposes of this subsection, the term "specified Federal program" means any of the following:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act.

(B) FOOD STAMPS.—The food stamp program as defined in section 3(h) of the Food Stamp Act of 1977.

(C) LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in section 12403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 12431) for any designated Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—Qualified aliens under this paragraph shall be eligible for any designated Federal program.

(D) Assistance or benefits under the Child Nutrition Act of 1966.

(E) Public health assistance for immunizations.

(iii) the spouse or unmarried dependent child of an individual described in subparagraph (B) or (C).

(F) Assistance or benefits under the National School Lunch Act.

(G) Assistance or benefits under Title XX of the Social Security Act.

(3) DESIGNATED FEDERAL PROGRAM DEFINED.—For purposes of this subsection, the term "designated Federal program" means any of the following:

(A) TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.—The program of block grants to States for the temporary assistance for needy families block grant.

(B) SOCIAL SECURITY.—The program of block grants to States for social services under title XX of the Social Security Act.

(C) MEDICAID.—The program of medical assistance under title XIX and XXI of the Social Security Act.


CHAPTER 2—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

SEC. 12421. ATTRIBUTION OF SPONSOR’S INCOME AND RESOURCES TO ALIEN.

(a) In General.—Notwithstanding any provision of law and except as provided in subsection (c), in determining the eligibility and the amount of benefits of an alien for any means-tested public benefits program (as defined in subsection (e)) the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who establishes the indivisibility of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 12422) in behalf of such alien.

(2) The income and resources of the spouse (if any) of the person.

(b) Application.—Subsection (a) shall apply with respect to an alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III of the Immigration and Nationality Act.

(c) Exceptions.—Subsection (a) shall not apply with respect to the following Federal public benefits:

(1) Emergency medical services under title XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(C) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who, while in the absence of subsection (a), be eligible to have such payments made on the child’s behalf under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(D) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and shelter for homeless persons) provided by an Attorney General in the General and by any other Federal or State government or agency or department, which A delivers in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient’s income or resources; and (C) are necessary for the protection of the life, safety, or property of any such individual.


(d) Review of Income and Resources of Alien Upon Reapplication.

(1) In General.—Whenever an alien is required to reapply for benefits under this Act, the sponsor shall notify the Federal government (as defined in subsection (e)) of the alien’s eligibility and the amount of benefits for such alien.

(2) Failure to Reapply.—If any such benefit; not less than $2,000 or more than $5,000.

(3) Penalties.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of up to $1,000.

(E) MEANS-TESTED PUBLIC BENEFITS PROGRAMS DEFINED.—The term “means-tested public benefits program” means a program of Federal, State, or local governmental authority for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

(f) Definitions.—For the purposes of this section:

(1) Sponsor.—The term “sponsor” means an individual who—

(A) is a citizen or national of the United States; or

(B) is a lawful alien who is lawfully admitted to the United States for permanent residence.

(2) Governmental agency.—The term “governmental agency” means any Federal, State, or local governmental authority.

(3) Means-tested public benefits program.—The term “means-tested public benefits program” means a program of Federal public benefits providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(4) Application.—(A) If on the date of the enactment of this Act, a means-tested public benefits program attributes a sponsor’s income and resources to an alien in determining the alien’s eligibility and the amount of benefits for the alien, this section shall apply to any such determination beginning on the day after the date of the enactment of this Act.

(B) If on the date of the enactment of this Act, a means-tested public benefits program does not attribute a sponsor’s income and resources to an alien in determining the alien’s eligibility and the amount of benefits for the alien, this section shall apply to any such determination beginning 180 days after the date of the enactment of this Act.

SEC. 12422. REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF SUPPORT.

(a) In General.—Title II of the Immigration and Nationality Act is amended by inserting after section 1231 the following new section:

“REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF SUPPORT.

“SEC. 231A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General by any consular officer to establish that an alien is not excusable as a public charge under section 212(a)(4) unless such affidavit of support is executed on behalf of such alien by the sponsor of such alien, in accordance with the provisions of this Act.

“(2) A contract under paragraph (1) shall be enforceable with respect to benefits provided to the alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III.

“(b) R E V I E W OF INCOME AND RESOURCES OF ALIEN UPON REAPPLICATION. —Whenever an alien upon reapplication is required to reapply for benefits under this Act, a means-tested public benefits program attributes a sponsor’s income and resources to an alien in determining the alien’s eligibility and the amount of benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

“(c) E FFECTIVE DATE. —Subsection (a) of section 231A of the Immigration and Nationality Act shall not apply with respect to the following:

(1) Emergency medical services under title XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.
SEC. 12433. STATUTORY CONSTRUCTION.

(a) LIMITATION.—Nothing in this subtitle may be construed as an entitlement or a determination of an individual’s eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this subtitle, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(b) NOT APPLICABLE TO FOREIGN ASSISTANCE.—Nothing in this subtitle shall be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under Plyler v. Doe (457 U.S. 202 (1982)).

(c) SEVERABILITY.—If any provision of this subtitle or the application of the provisions of such to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Subtitle F—Teaching Hospital and Graduate Medical Education Trust Fund

CHAPTER 1—TRUST FUND

SEC. 12501. ESTABLISHMENT OF FUND; PAYMENTS TO TEACHING HOSPITALS.

The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XXI the following title:

“TITLE XXII—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

‘‘TABLE OF CONTENTS OF TITLE
‘‘PART A—ESTABLISHMENT OF FUND

‘‘Sec. 2201. Establishment of Fund.

‘‘PART B—PAYMENTS TO TEACHING HOSPITALS

‘‘Subpart 1—Requirement of Payments

‘‘Sec. 2211. Formula payments to teaching hospitals.

‘‘Subpart 2—Administrative provisions regarding annual payment document.

‘‘Subpart 3—Amount Relating to MedicarePlus Program

‘‘Sec. 2221. Determination of amount relating to MedicarePlus program.

‘‘Subpart 4—Amount Relating to Direct Costs of Graduate Medical Education

‘‘Sec. 2241. Determination of amount relating to direct costs.

‘‘Subpart 5—Indirect costs; special rules regarding payments from general account.

‘‘Sec. 2243. Direct costs; authority for payments to consortia of providers.

‘‘PART A—ESTABLISHMENT OF FUND

‘‘Sec. 2201. ESTABLISHMENT OF FUND.

(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the ‘‘Fund’’), consisting of amounts transferred to the Fund under paragraphs (d), (e)(3), and (g), and amounts transferred to the Fund under section 1886(j). Amounts in the Fund are available until expended.

(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2211.

(c) STATUTORY CONSTRUCTION.—There are established within the Fund the following accounts:

(1) The General MedicarePlus Incentive Account.

(2) The General Indirect-Costs Medical Education Account.

(3) The General Direct-Costs Medical Education Account.

(4) The Medicare Indirect-Costs Medical Education Account.

(5) The Medicare Direct-Costs Medical Education Account.

(6) GENERAL TRANSFERS TO FUND.—

(1) IN GENERAL.—For fiscal year 1997 and each subsequent fiscal year, there are appropriated to the Fund the amounts specified in paragraph (2), out of any money in the Treasury not otherwise provided for, the following amounts (as applicable to the fiscal year involved):

(A) For fiscal year 1997, $1,100,000,000.

(B) For fiscal year 1998, $1,300,000,000.

(C) For fiscal year 1999, $1,300,000,000.

(D) For fiscal year 2000, $2,600,000,000.

(E) For fiscal year 2001, $3,100,000,000.

(F) For fiscal year 2002, $3,400,000,000.

(G) For fiscal year 2003 and each subsequent fiscal year, the greater of the amount appropriated for the preceding fiscal year or an amount equal to the product of—

(i) the amount appropriated for the preceding fiscal year; and

(ii) 1 plus the percentage increase in the nominal gross domestic product for the one-year period ending upon July 1 of such preceding fiscal year.

(2) EFFECTIVE DATE FOR ANNUAL APPROPRIATION.—For purposes of paragraph (1), the date specified in this paragraph for a fiscal year is the first day of such fiscal year.

(d) ALLOCATIONS FOR GENERAL MEDICARE PLUS INCENTIVE ACCOUNT.—Of the amount appropriated in paragraph (1) for a fiscal year, there shall be allocated to the General MedicarePlus Incentive Account the percentage (as applicable to the fiscal year involved): 

(A) For fiscal year 1997, 20 percent.

(B) For fiscal year 1998, 30 percent.

(C) For fiscal year 1999, 40 percent.

(D) For fiscal year 2000 and each subsequent fiscal year, 50 percent.

(e) ALLOCATIONS FOR GENERAL MEDICAL EDUCATION ACCOUNTS.—

(1) IN GENERAL.—Of the amount appropriated in paragraph (1) for a fiscal year and remaining after the allocation required in paragraph (3) for the year has been made—

(i) there shall be allocated to the General Indirect-Costs Medical Education Account the percentage determined under subparagraph (B)(i); and

(ii) there shall be allocated to the General Direct-Costs Medical Education Account the percentage determined under subparagraph (B)(ii).

(2) DETERMINATION OF FIXED PERCENTAGE.—The Secretary of Health and Human Services, acting through the Administrator of the Health Care Financing Administration, shall determine the following:

(i) The total amount of payments that were made under subsections (d)(5)(B) and (h) of section 1886 for fiscal year 1994.
"(ii) The percentage of such total that was constituted by payments under subsection (d)(5)(B) of such section.

(iii) The percentage of such total that was constituted by payments under subsection (h) of such section.

(e) TRANSFERS FROM MEDICARE PROGRAM.—Amounts shall, in accordance with section 1886(j), be transferred to the Fund from the trust funds established under parts A and B of title XVIII;

(f) INVESTMENT.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as the Secretary determines to be appropriate (subject to applicable Federal law regarding Federal payments).

(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(g) MONETARY GIFTS TO FUND.—There are appropriated to the Fund such amounts as may be derived from obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

(h) PHF—PAYMENTS TO TEACHING HOSPITALS—Subpart 1—Requirement of Payments

SEC. 2211. FORMULA PAYMENTS TO TEACHING HOSPITALS.

(a) IN GENERAL.—Subject to subsection (d), in the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1995 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and the total of the payments to the hospital for the fiscal year shall equal the sum of the following:

(1) An amount determined under section 2211(b) (relating to the MedicarePlus program).

(2) An amount determined under section 2231 (relating to the indirect costs of graduate medical education).

(3) An amount determined under section 2241 (relating to the direct costs of graduate medical education).

(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital during a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. This subsection is subject to section 2219.

(c) PERIODIC PAYMENTS.—Payments under subsection (a) for a teaching hospital for a fiscal year shall be made periodically, at such intervals and in such amounts as the Secretary determines to be appropriate (subject to applicable Federal law regarding Federal payments).

(d) SPECIAL RULES.—

(1) OF CONSORTIA OF PROVIDERS.—In the case of payments under subsection (a) that are determined under section 2241:

(A) The requirement under such subsection to make payments to teaching hospitals subject to the authority of the Secretary under section 2243(a) to make payments to qualifying consortia is subject to the authority of the Secretary under section 2243(a) to make payments to qualifying consortia.

(B) If the Secretary authorizes payments to a consortium under section 2243(a), subsections (a) and (b) of this section (other than subsection (a)(2)) apply to the consortium to the same extent and in the same manner as the subsections apply to teaching hospitals.

(2) HOSPITALS IN STATES WITH CERTAIN DEMOGRAPHIC CHARACTERISTICS.—Paragraph (1) of subsection (a) is subject to section 2232(d)(1)(B), and paragraph (3) of such subsection is subject to section 2242(d)(1)(B).

(e) ADMINISTRATION OF PROGRAM.—This part, and the subsequent parts of this title, shall be carried out by the Secretary acting through the Administrator of the Health Care Financing Administration.

(f) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—For purposes of this title, the term 'approved medical residency training program' includes any program of medical residency training approved by the Secretary under such subsection to a teaching hospital that meets current withdrawals from the Fund. Such program or programs are not required to meet current withdrawals from the Fund, and the document is submitted not later than the date specified in such section for the applicable fiscal year of the hospital.

SEC. 2212. ADDITIONAL PROVISIONS REGARDING FORMULA PAYMENT DOCUMENT.

(a) PERIODIC REPORTS.—In collecting information under section 2211(b), the Secretary may require that information be submitted to the Secretary in periodic reports.

(b) INFORMATION RELATING TO MEDICARE PROGRAM.—Information collected by the Secretary under section 2211(b) with respect to a teaching hospital for a fiscal year shall include information on the following:

(1) The number of inpatient discharges for the fiscal year attributable to individuals enrolled in the MedicarePlus program under part C of title XVIII.

(2) For each discharge with respect to which payment is received from the Secretary pursuant to paragraph (2) of such subsection to a group within which the discharge is classified (as determined in accordance with section 1886(d)(4)(A)).

(3) The Medicare patient load of the hospital (as defined in section 1886(h)(3)(C)).

Subpart 2—Amount Relating to MedicarePlus Program

SEC. 2221. DETERMINATION OF AMOUNT RELATING TO MEDICAREPlus PROGRAM.

(a) IN GENERAL.—For purposes of section 2211(a)(1), the amount determined under this section for a teaching hospital for a fiscal year is the product of—

(1) the amount in the General Medicare Plus Incentive Account on the date specified in section 2201(d)(2) (once the appropriation under such section is made); and

(2) the percentage determined under this paragraph for the hospital.

(b) ANNUAL HOSPITAL-SPECIFIC PERCENTAGE.—For purposes of paragraph (a)(2), the percentage determined under this paragraph for a teaching hospital for a fiscal year is the percentage constituted by the ratio of—

(1) the number of inpatient discharges for the fiscal year attributable to individuals enrolled in the MedicarePlus program under part C of title XVIII; to

(2) the sum of the respective numbers determined under paragraph (1) for the fiscal year for all teaching hospitals.

Subpart 3—Amount Relating to Indirect Costs of Medical Education

SEC. 2231. DETERMINATION OF AMOUNT RELATING TO INDIRECT COSTS.

(a) IN GENERAL.—For purposes of section 2221(d)(2), the amount determined under this section for a teaching hospital for a fiscal year is the sum of—

(1) the amount determined under subsection (b) (relating to the General Indirect-Costs Medical Education Account); and

(2) the amount determined under subsection (c) (relating to the Medicare Indirect-Costs Medical Education Account), subject to section 2232(d)(1)(B).

(b) PAYMENT FROM GENERAL ACCOUNT.—

(1) IN GENERAL.—For purposes of section 2211(b)(2), the amount determined under this subsection to the hospital, subject to paragraph (3), is the product of—

(A) the amount in the General Indirect-Costs Medical Education Account on the date specified in section 2201(d)(2) (once the appropriation under such section is made); and

(B) the percentage determined under this paragraph for the hospital.

(2) FIXED HOSPITAL-SPECIFIC PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the mean average of the respective percentages determined for each fiscal year of the applicable period (as defined in subparagraph (B), adjusted by the Secretary upward or downward, as the case may be) on a pro rata basis during the extent necessary to ensure that the sum of the percentages determined under this paragraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to section 2222.

(3) APPLICABLE PERIOD REGARDING REL evant Data; Fiscal Years 1992 Through 1996.—For purposes of this part, the term 'applicable period' means the period beginning on the first day of fiscal year 1992 and continuing through the end of fiscal year 1994.

(c) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of paragraphs (a) and (b), the amount determined under such paragraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—

(1) the total amount of payments received by the hospital under section 2221(b)(5)(B) for discharges occurring during the fiscal year involved; to

(2) the sum of the respective amounts determined under clause (1) for the fiscal year for all teaching hospitals.

(d) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in paragraph (1)(i) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such paragraph for the fiscal year involved, the Secretary shall for purposes of such subsection make an estimate on the basis of such data as are available to the Secretary for the applicable period.

(e) PAYMENT FROM MEDICARE ACCOUNT.—For purposes of section 2211(b)(2), the amount determined under this subsection for a teaching hospital for a fiscal year is deemed to be the amount determined in accordance with the methodology in effect under section 1886(d)(5)(B) for such year. Payments made under section 2211 pursuant to the percentage determined under section 2231(b)(2) to the hospital, subject to paragraph (3).

(f) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

(1) I f the first payment year for the hospital was fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage constituted by the amount determined under section 2231(b)(2) to the hospital, subject to paragraph (3).
this subparagraph is an amount equal to an es-
timate by the Secretary of the total amount of payments that would have been paid to the hos-
pital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1996 if such hospital had as in effect for fiscal year 1996, had applied to the hospital for discharges occurring during fis-
cal year 1995.

(ii) if the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

(3) ADJUSTMENT OF PERCENTAGE.—The per-
centage determined under paragraph (2) shall be adjusted by the Secretary in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

(b) NEW TEACHING HOSPITALS.—

(1) The Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals as follows:

(A) The amount determined under this subparagraph is the sum of the estimates made by the Secretary to be necessary with respect to a hospital that did not receive payments under section 1886(d)(5)(B) for any of the fiscal years 1992 through 1996, the percentage determined under this paragraph for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, subject to paragraphs (4) and (5).

(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most re-
cent fiscal year for which the Secretary has suf-
cient data to make the determination (referred to in this subsection as the ‘designated fiscal year’).

(3) DETERMINATION OF FIXED PERCENTAGE.—

For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage con-
stituted by the ratio of the amount determined under subparagraph (A) to the amount deter-
ned under subparagraph (B), as follows:

(A) the amount in the General Direct-Costs Medical Education Account; and

(B) the hospital is not eligible for any pay-
ments that would have been paid to the hos-
pital involved; to

(4) ADJUSTMENT OF PERCENTAGE.—The per-
centage determined under paragraph (3) shall be adjusted by the Secretary in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

(6) FISCAL YEAR 1995.—

(1) In general.—In the case of a teaching hospital in a State for which a demonstration project under section 1914(b)(3) is in effect, if the hospital is in a State for which a demonstration project under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.

(ii) if the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

(iii) if the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is an amount equal to an es-
timate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for any of the fiscal years 1992 through 1996, the percentage determined under this paragraph for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, subject to paragraphs (4) and (5).

(2) DETERMINATION OF FIXED PERCENTAGE.—

For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

(A) the amount in the General Direct-Costs Medical Education Account, subject to section 2241(b)(1)(B); and

(B) the hospital is not eligible for any pay-
ments that would have been paid to the hospital involved.

(3) A VAILABILITY OF DATA .—If a teaching hospital that did not receive payments under section 1886(h) for cost reporting periods beginning in fiscal year 1995, the percentage determined under this paragraph for the teaching hospital is deemed to be the percentage applicable under section 2241(b)(2) to the hospital, subject to paragraph (3).

(4) DETERMINATION OF FIXED PERCENTAGE.—

For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

(A) the amount in the General Direct-Costs Medical Education Account on the applicable date under section 1886(h) for cost reporting periods beginning in fiscal year 1995.

(ii) the amount determined under this subparagraph for a teaching hospital is the mean average of the respective percentages that would have applied to the hospital for fiscal year 1995.

(iii) if the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an es-
timate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for cost reporting pe-
riods beginning in fiscal year 1995 if such section, as in effect for fiscal year 1995, had ap-
plicated to the hospital for fiscal year 1995.

(5) FISCAL YEAR 1996.—

(1) In general.—In the case of a teaching hospital condemned to be the percentage applicable under section 2241(b)(2) to the hospital, subject to paragraphs (4) and (5).

(2) DETERMINATION OF FIXED PERCENTAGE.—

For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

(A) the amount in the General Direct-Costs Medical Education Account; and

(B) the hospital is not eligible for any pay-
ments that would have been paid to the hospital involved.

(3) A VAILABILITY OF DATA .—If a teaching hospital that did not receive payments under section 1886(h) for any of the fiscal years 1992 through 1996, the percentage determined under this paragraph for the hospital involved is deemed to be the percentage applicable under section 2241(b)(2) to the hospital, subject to paragraph (3).

(4) DETERMINATION OF FIXED PERCENTAGE.—

For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

(A) the amount in the General Direct-Costs Medical Education Account.

(ii) the amount determined under this subparagraph for a teaching hospital is the mean average of the respective percentages that would have applied to the hospital for fiscal year 1995.

(iii) if the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an es-
timate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for cost reporting pe-
riods beginning in fiscal year 1995 if such section, as in effect for fiscal year 1995, had ap-
plicated to the hospital for fiscal year 1995.

(6) FISCAL YEAR 1996.—

(1) In general.—In the case of a teaching hospital that did not receive payments under section 1886(h) for cost reporting periods beginning in fiscal year 1995, the percentage determined under this paragraph (3) for the hospital is deemed to be the percentage applicable under section 2241(b)(2) to the hospital, subject to paragraphs (4) and (5).

(2) DETERMINATION OF FIXED PERCENTAGE.—

For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

(A) the amount in the General Direct-Costs Medical Education Account, subject to section 2241(b)(1)(B).

(ii) the amount determined under this subparagraph for a teaching hospital is the mean average of the respective percentages that would have applied to the hospital for fiscal year 1995.

(iii) if the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an es-
timate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for cost reporting pe-
riods beginning in fiscal year 1995 if such section, as in effect for fiscal year 1995, had ap-
plicated to the hospital for fiscal year 1995.
to in this subsection as the 'designated fiscal year').

(3) Determination of Fixed Percentage.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under paragraph (2) to the amount determined under subparagraph (B), as follows:

(A) The amount determined under this subparagraph is an amount equal to a fifth (1/5) of the total amount of payments that would have been paid to the hospital under section 1886(h) for the designated fiscal year if such section, as in effect for the first fiscal year for which the hospital involved is part of a consolidated or merged hospital, had applied to the hospital for cost reporting periods beginning in the designated fiscal year.

(B) The Secretary shall make an estimate in accordance with paragraph (1) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.

(4) Adjustment of Percentage.—The percentage determined under paragraph (3) shall be adjusted by the Secretary in accordance with section 2223(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a health maintenance organization.

(5) Limitation.—This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which section 1814(b)(3) is in effect.

(6) Consolidations and Mergers.—In the case of a hospital that has undergone a consolidation or merger, the percentage applicable to the teaching hospital involved is the percentage determined for the teaching hospital involved as the Secretary determines to be appropriate.

(7) Members of the Consortium.—The members of the consortium have agreed to collaborate in the programs of graduate medical education that are operated by such members.

(8) The consortium meets such additional requirements as the Secretary may establish.

(9) Payments from Accounts.—The total amount of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall be the sum of—

(A) the aggregate amount determined for the teaching hospitals of the consortium pursuant to section 2224(a) (relating to the General Medical Insurance Trust Fund);

(B) an amount determined for the teaching hospitals of the consortium pursuant to section 2242 (relating to the Medicare Indemnity Account); and

(C) an amount determined for the consortium in accordance with the methodology in effect under section 1886(j)(2)(C)(i) for the fiscal year (relating to the Medicare Indemnity Account).

(10) Definition.—For purposes of this title, the term 'qualifying consortium' means a consortium that meets the requirements of section (b).

CHAPTER 2—AMENDMENTS TO MEDICARE PROGRAM

SEC. 2261. TRANSFER OF FUNDS.

Section 1886 (42 U.S.C. 1395ww) is amended—

(A) In general.—In lieu of making payment to teaching hospitals pursuant to sections 2221 and 2241, the Secretary may make payments pursuant to and subject to the amount determined under subparagraph (B), to the amount determined under section 2224(b)(2) (relating to the Medicare Indemnity Account); and

(B) Qualifying Consortium.—For purposes of this section, the qualifying consortium meets the requirements of this section if the consortium is in compliance with the following:

(1) The consortium consists of a teaching hospital and one or more of the following entities:

(A) Schools of allopathic medicine or osteopathic medicine.

(B) Other teaching hospitals.

(C) Approved medical residency training programs.

(D) Federally qualified health centers.

(E) Medical group practices.

(F) Managed care entities.

(G) Entities furnishing outpatient services.

(H) Such other entities as the Secretary determines to be appropriate.

(2) The members of the consortium have agreed to collaborate in the programs of graduate medical education that are operated by such members.

(3) The consortium meets such additional requirements as the Secretary may establish.

(4) Payments from Accounts.—The total amount of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall be the sum of—

(A) an amount determined by the Secretary in accordance with section 2224 (relating to the General Medical Insurance Trust Fund);

(B) an amount determined by the Secretary in accordance with section 2231 (relating to the Medicare Indirect-Costs Medical Education Account); and

(C) an amount determined by the Secretary in accordance with subparagraph (B), as follows:

(i) The consortium consists of a teaching hospital and one or more of the following entities:

(A) Schools of allopathic medicine or osteopathic medicine.

(B) Other teaching hospitals.

(C) Approved medical residency training programs.

(D) Federally qualified health centers.

(E) Medical group practices.

(F) Managed care entities.

(G) Entities furnishing outpatient services.

(H) Such other entities as the Secretary determines to be appropriate.

(ii) Members of the Consortium.—The members of the consortium have agreed to collaborate in the programs of graduate medical education that are operated by such members.

(iii) The consortium meets such additional requirements as the Secretary may establish.

(iv) Payments from Accounts.—The total amount of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall be the sum of—

(A) an amount determined by the Secretary in accordance with section 2224 (relating to the General Medical Insurance Trust Fund);

(B) an amount determined by the Secretary in accordance with section 2231 (relating to the Medicare Indirect-Costs Medical Education Account); and

(C) an amount determined by the Secretary in accordance with subparagraph (B), as follows:

(i) The consortium consists of a teaching hospital and one or more of the following entities:

(A) Schools of allopathic medicine or osteopathic medicine.

(B) Other teaching hospitals.

(C) Approved medical residency training programs.

(D) Federally qualified health centers.

(E) Medical group practices.

(F) Managed care entities.

(G) Entities furnishing outpatient services.

(H) Such other entities as the Secretary determines to be appropriate.

(ii) Members of the Consortium.—The members of the consortium have agreed to collaborate in the programs of graduate medical education that are operated by such members.

(iii) The consortium meets such additional requirements as the Secretary may establish.

(iv) Payments from Accounts.—The total amount of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall be the sum of—

(A) an amount determined by the Secretary in accordance with section 2224 (relating to the General Medical Insurance Trust Fund);

(B) an amount determined by the Secretary in accordance with section 2231 (relating to the Medicare Indirect-Costs Medical Education Account); and

(C) an amount determined by the Secretary in accordance with subparagraph (B), as follows:

(i) The consortium consists of a teaching hospital and one or more of the following entities:

(A) Schools of allopathic medicine or osteopathic medicine.

(B) Other teaching hospitals.

(C) Approved medical residency training programs.

(D) Federally qualified health centers.

(E) Medical group practices.

(F) Managed care entities.

(G) Entities furnishing outpatient services.

(H) Such other entities as the Secretary determines to be appropriate.

(ii) Members of the Consortium.—The members of the consortium have agreed to collaborate in the programs of graduate medical education that are operated by such members.

(iii) The consortium meets such additional requirements as the Secretary may establish.
under subparagraph (A) for a fiscal year is insuffici-ent for making payments in the amounts required pursuant to sections 224(a)(2) and 224(c)(3) for the year, the Secretary may make such additional transfers for the year as authorized between the funds and accounts involved as the Secre-tary determines to be necessary for making the payments.

(13) APPLICABILITY OF CERTAIN AMEND-MENTS.—Amdments made to subsection (d)(5)(B) and subsection (h) that are effective on or after October 1, 1996, apply only for purposes of estimating the amounts under paragraphs (1) and (2) and for purposes of determining the amount of payments under 2211. Such amendments do not re-quire any adjustment to amounts paid under subsections (d)(5)(B) and (h) were included in such determination under the provisions of this title in effect on September 30, 1996.

Title XII—Other Provisions

Subtitle F—National Defense Stockpile

SEC. 1260L. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as of the date of the enactment of this Act, is authorized for disposal under any law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of other materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in amounts equal to:

- (A) $21,000,000 during the fiscal year ending September 30, 1996;
- (B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and
- (C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for dispo-sal by the President under subsection (a) may not exceed the amounts set forth in the following table:

<table>
<thead>
<tr>
<th>Material for disposal</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aluminum</td>
<td>6,881 short tons</td>
</tr>
<tr>
<td>Cobalt</td>
<td>30,000,000 pounds</td>
</tr>
<tr>
<td>Columbium Ferro</td>
<td>930,911 pounds</td>
</tr>
<tr>
<td>Germanium Metal</td>
<td>40,000 kilograms</td>
</tr>
<tr>
<td>Indium</td>
<td>35,000 troy ounces</td>
</tr>
<tr>
<td>Palladium</td>
<td>15,000 troy ounces</td>
</tr>
<tr>
<td>Platinum</td>
<td>10,000 troy ounces</td>
</tr>
<tr>
<td>Rubber, Natural</td>
<td>125,138 long tons</td>
</tr>
<tr>
<td>Tantalum, Caride</td>
<td>6,000 pounds</td>
</tr>
<tr>
<td>Tantalum, Powder</td>
<td>10,200 pounds</td>
</tr>
<tr>
<td>Tantalum, Minerals</td>
<td>750,000 pounds</td>
</tr>
<tr>
<td>Tantalum, Oxide</td>
<td>40,000 pounds</td>
</tr>
</tbody>
</table>

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98t), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.

(d) RELATIONSHIP TO OTHER DISPOSAL AU-thorITIES.—Nothing in this section limits the President's duties under the National Defense Stockpile Act of 1930 (50 U.S.C. 98b) or the National Defense Stockpile Act of 1934 (50 U.S.C. 98r).

(3) A PPLICABILITY OF CERTAIN AMEND -MENTS.—The amendments made to section 1814(b)(3) by this Act shall include all amounts transferred under this Act after October 1, 1996.

SEC. 1270L. ESTABLISHMENT OF PROGRAM.

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by striking subpart 2 of part B and inserting the following subpart:

"Subpart 2—Block Grants for the Protection of Children and Matching Payments for Foster Care and Adoption Assistance

SEC. 430. ELIGIBLE STATES.

(a) I N GENERAL. The term `eligible States' means a State that has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

(b) C EERTIFICATION OF STATE PROCEDURES FOR EXPUNGEMENT OF CERTAIN RECORDS.—A certification that State laws and procedures for expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks are cases determined to be unsubstantiated or false.

SEC. 430A. ELIGIBLE STATES.

(a) I N GENERAL. The term `eligible States' means a State that has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

(b) C EERTIFICATION OF STATE PROCEDURES FOR DEPLOYING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF DISABLED INFANTS OR DISABLED CHIL-DREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their homes, including the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months and that the placement is achieved, and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.

SEC. 430B. ELIGIBLE STATES.

(a) I N GENERAL. The term `eligible States' means a State that has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

(b) C EERTIFICATION OF STATE PROCEDURES FOR PROVIDING INDEPENDENT LIVING SERVICES.—A cer-tification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 18, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.

SEC. 430C. ELIGIBLE STATES.

(a) I N GENERAL. The term `eligible States' means a State that has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

(b) C EERTIFICATION OF STATE PROCEDURES FOR REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

(a) I N GENERAL. The term `eligible States' means a State that has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

(b) C EERTIFICATION OF STATE PROCEDURES FOR REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

(a) I N GENERAL. The term `eligible States' means a State that has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

(b) C EERTIFICATION OF STATE PROCEDURES FOR REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

(a) I N GENERAL. The term `eligible States' means a State that has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

(b) C EERTIFICATION OF STATE PROCEDURES FOR REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

(a) I N GENERAL. The term `eligible States' means a State that has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

(b) C EERTIFICATION OF STATE PROCEDURES FOR REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

(a) I N GENERAL. The term `eligible States' means a State that has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

(b) C EERTIFICATION OF STATE PROCEDURES FOR REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

(a) I N GENERAL. The term `eligible States' means a State that has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

(b) C EERTIFICATION OF STATE PROCEDURES FOR REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

(a) I N GENERAL. The term `eligible States' means a State that has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.
physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that such term does not include the failure to provide care (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment—

(ii) the infant is chronically and irreversibly comatose;

(ii) the provision of such treatment would—

(iv) the determination of the appropriate, and necessity for, the foster care placement;

(iii) the provision of such treatment would be virtually futile in terms of the survival of the infant and placement of itself under such circumstances would be inhumane.

(11) IDENTIFICATION OF CHILD PROTECTION GOALS.—The qualitative goals of the State child protection program.

(12) CERTIFICATION OF CHILD PROTECTION STANDARDS.—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State does not have an inventory of the children who, before the inventory, had been in foster care under the supervision of the State for 6 months or more and has not determined—

(i) the appropriateness of, and necessity for, the foster care placement;

(ii) in any other case, allow the claim, subject to disallowance (as necessary).

SEC. 431. GRANTS TO STATES FOR CHILD PROTECTION AND ADOPTION ASSISTANCE.

(a) FUNDING OF BLOCK GRANTS.—Each eligible State shall be entitled to receive from the Secretary for each fiscal year specified in subparagraph (A), an amount equal to the State share of the child protection amount for the fiscal year.

(b) MAINTENANCE PAYMENTS.—

(i) IN GENERAL.—In addition to the grants described in subsection (a), each eligible State shall be entitled to receive from the Secretary for each quarter of a fiscal year specified in subsection (c)(3) an amount equal to the sum of—

(1) the Federal medical assistance percentage (as defined in section 1905(b) of this Act as in effect on the day before the date of enactment of this subpart) of the total amount expended during such quarter as foster care maintenance payments under the child protection program under this subpart for children in foster family homes or child-care institutions; plus

(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act (as so in effect)) of the total amount expended during such quarter as adoption assistance payments under the child protection program under this subpart pursuant to adoption assistance agreements.

(2) ESTIMATES BY THE SECRETARY.—

(A) IN GENERAL.—The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled to receive under paragraph (1) for such quarter, such estimates to be based on—

(i) the actual expenditures, such as paid from reimbursement accounts established by the State containing the amount of the grant made under this section for a previous fiscal year, that the State made during the previous fiscal year;

(ii) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with paragraph (1), and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State’s proportionate share of the total sum of such estimated expenditures, the amount by which such appropriation or availability falls short of such estimated expenditures, and the percentage of the difference that is expected to be derived;

(iii) records showing the number of children in the State receiving assistance under this subpart; and

(iv) such other information as the Secretary may find necessary.

(b) PAYMENTS.—The Secretary shall pay to the States the amounts so estimated under subparagraph (A), reduced or increased to the extent of any overpayment or underpayment by the State of the amounts payable to the State under this subpart for any prior quarter and with respect to which adjustment has not already been made under this paragraph.

(c) PRO RATA SHARE.—The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State, or any political subdivision thereof, with respect to foster care and adoption assistance furnished under this subpart shall be considered an overpayment to be adjusted under this paragraph.

(3) ALLOWANCE OR DISALLOWANCE OF CLAIM.—

(a) IN GENERAL.—Within 60 days after receipt of a State claim for expenditures pursuant to paragraph (2)(A), the Secretary shall allow, disallow, or defer such claim.

(b) USE OF GRANT.—Within 60 days after a decision to defer a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine if the State is eligible for the claim.

(c) DECISION.—Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

(i) disallow the claim, if able to complete the review and determine that the claim is not allowable; or

(ii) in any other case, allow the claim, subject to disallowance (as necessary).

(iii) upon completion of the review, if it is determined that the claim is not allowable; or

(iv) on the basis of findings of an audit or financial management review.

(c) DEFINITIONS.—As used in this section:

(1) CERTIFICATION OF REASONABLE EFFORTS.—

(A) $1,936,000,000 for fiscal year 1996;

(B) $1,942,000,000 for fiscal year 1997;

(II) the total claims submitted by the State (without regard to disputed claims) under the provision of law specified in subparagraph (C) for fiscal years 1999, 2000, 2001, and 2002.

(2) STATE SHARE.—

(A) In general.—The term ‘State share’ means the sum of the qualified child protection expenses of the State divided by the sum of the qualified child protection expenses of all of the States.

(B) QUALIFIED CHILD PROTECTION EXPENSES.—The term ‘qualified child protection expenses’ means, with respect to a State the greater of—

(i) the total amount of—

(A) $2,432,000,000 for fiscal year 2001;

(B) $2,593,000,000 for fiscal year 2002;

(C) the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under the child protection program under this subpart for children in foster family homes or child-care institutions; plus

(c) PREPAID EXPENSES.—The term ‘prepaid expenses’ includes the total amount of funds for prepaid expenses, as determined under this paragraph, subject to disallowance (as necessary). In the case of a State claim for the first quarter of a fiscal year, the amount to which the State is entitled to receive payment for prepaid expenses shall be—

(2) TIMING OF EXPENDITURES.—A State to which a grant is made under this section may use the grant only in such manner that the determination of the amount of funds for prepaid expenses shall be—

(i) Section 434 of this Act.

(ii) Section 474(a)(4) of this Act.

(c) PROVISIONS OF LAW.—The provisions of law specified in subparagraph (B) shall be—

(i) Section 434 of this Act.

(ii) Section 474(a)(3)(B) of this Act.

(iii) Section 474(a)(3)(C) of this Act.

(d) USE OF GRANT.—

(i) In general.—A State to which a grant is made under this section may use the grant in any manner that the State determines to be appropriate to accomplish the child protection goals of the State program funded under this subpart.

(ii) TIMING OF EXPENDITURES.—A State to which a grant is made under this section for a fiscal year shall expend the total amount of the grant within the end of the immediately succeeding fiscal year.

(iii) RULE OF INTERPRETATION.—This subpart shall not be interpreted to prohibit short- and long-term foster care funded under this subpart from receiving funds provided under this subpart.
"(f) Penalties.—

(1) For use of grant in violation of this subpart.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that a State under this section for a fiscal year has been used in violation of this subpart, then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately preceding fiscal year by the amount of the difference, plus 5 percent of the grant paid under this section to the State for such fiscal year.

(2) For failure to maintain effort.—

(A) In general.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that the amount expended by a State (other than from amounts provided by the Federal Government) during the fiscal years specified in clause (B), to carry out the State program funded under this subpart is less than the applicable percentage specified in such subparagraph of the total amount expended by the State (other than from amounts provided by the Federal Government) during fiscal year 1995 under subpart 2 of part B and part E of this title (as in effect on the day before the date of the enactment of this subpart), then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount of the difference, plus 5 percent of the grant paid under this section to the State for such fiscal year.

(B) Specification of fiscal years and applicable percentages.—The fiscal years and applicable percentages specified in this subparagraph are as follows:

(i) For fiscal years 1996 and 1997, 75 percent.
(ii) For fiscal years 1998 through 2002, 75 percent.

(C) For failure to submit required report.—

(A) In general.—The Secretary shall reduce by 3 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a fiscal year if the Secretary determines that the State has not submitted the report required by section 436(b) for the immediately preceding fiscal year, within 6 months after the end of the immediately preceding fiscal year.

(B) Excession of penalty.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

(4) For failure to comply with sampling methods requirements.—The Secretary may reduce by not more than 1 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a fiscal year if the Secretary determines that the State has not complied with the Secretary's sampling methods requirements under section 436(c)(2) during the prior fiscal year.

(5) State funds to reduce reductions in grant.—A State which has a penalty imposed against it under this subsection for a fiscal year shall expend additional State funds in an amount equal to 5 percent of the amount of the penalty for the purpose of carrying out the State program under this subpart during the immediately succeeding fiscal year.

(6) Reasonable cause exception.—The Secretary may not impose a penalty on a State under this subsection with respect to a requirement of the Secretary that the State has reasonable cause for failing to comply with the requirement.

(7) Corrective compliance plan.—

(A) In general.—If the Secretary determines that the State has reasonable cause for failing to comply with the requirement, the Secretary shall permit the State to enter into a corrective compliance plan in accordance with this subsection.

(B) Time period for corrective compliance plan.—Any State notified under paragraph (a) shall have 60 days in which to submit to the Federal Government a corrective compliance plan to correct any violations described in paragraph (a).

(8) Limitation on amount of penalty.—(A) IN GENERAL.—The Secretary shall reduce the amount of the penalty described in this subsection by the amount of the difference, plus 5 percent of the grant paid under this section to the State for the immediately succeeding fiscal year.

(B) Failure to correct.—If a corrective compliance plan is accepted by the Federal Government in accordance with the provisions of this subsection, the Secretary shall reduce the amount of the penalty described in this subsection by the amount of the difference, plus 5 percent of the grant paid under this section to the State for the immediately succeeding fiscal year.

(9) Treatment of territories.—

(A) In general.—A territory, as defined in section 1108(b)(1), shall carry out a child protection program in accordance with the provisions of this subpart.

(B) Payment.—Each territory, as so defined, shall be entitled to receive from the Secretary for any fiscal year an amount, in accordance with this subsection, to carry out a child protection program in accordance with the provisions of this subpart.

(10) Limitation on federal authority.—Except as expressly provided in this Act, the Secretary shall not have authority with respect to the conduct of States under this subpart or enforce any provision of this subpart.

SEC. 432. REQUIREMENTS FOR FOSTER CARE MAINTENANCE PAYMENTS.

(1) In general.—Each State operating a program under this subpart shall make foster care maintenance payments under section 432(b) with respect to a child who would meet the requirements of section 406(a) or of section 407 (as so in effect) with respect to a child described in subsection (a) of this section who is—

(A) the State; or

(B) any other public agency with whom the State has entered into a contractual arrangement for the administration of the State program under this subpart which is still in effect;
SEC. 433. REQUIREMENTS FOR ADOPTION ASSISTANCE PAYMENTS.

(a) IN GENERAL.—A State operating a program of adoption assistance payments shall enter into adoption assistance agreements with the adoptive parents of children with special needs.

(b) PAYMENTS UNDER AGREEMENTS.—Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs who meets the requirements of subsection (c), the State may make adoption assistance payments to such parents or to another public or nonprofit private agency, in amounts determined under subsection (d).

(c) CHILDREN WITH SPECIAL NEEDS.—For purposes of this section, a child meets the requirements of subsection (a) if—

(1) the State has determined that the child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under title XVIII of the Social Security Act, or such child is a sibling or part of a sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under title XIX or XXI;

(2) that, with respect to which Federal payments are provided under section 432(b) or 433 (as in effect on the date of the enactment of this subpart, or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child),

(3) meets all of the requirements of title XVI of the Social Security Act with respect to his or her minor parent;

(4) would have received aid under the eligibility standards under the State plan applicable to the child’s removal from the home of a relative (specified in section 406(a) as so in effect), and

(5) the child is placed in foster care by the State or a public or nonprofit private agency while in the care of such parents as a foster child, a relative, a guardian, or the care of such parents as a relative, a guardian, or the care of such parents as an adoptive parent or guardian, which may be defined in the plan as a child removed from the care of the parent as a relative, a guardian, or the care of such parents as an adoptive parent or guardian, the needs of the child being adopted, and the child’s removal from the home of a relative, a guardian, or the care of such parents as an adoptive parent or guardian.

(d) AMOUNTS.—The Secretary shall promulgate regulations to implement this section.

SEC. 434. CITIZEN REVIEW PANELS.

(a) ESTABLISHMENT.—Each State to which a grant is made under section 431(a) shall establish at least 3 citizen review panels.

(b) COMPOSITION.—Each panel established under subsection (a) shall be broadly representative of the community from which drawn.

(c) FREQUENCY OF MEETINGS.—Each panel established under subsection (a) shall meet not less frequently than quarterly.

(d) DUTIES.—(1) IN GENERAL.—Each panel established under subsection (a) shall, by examining specific cases, determine the extent to which the State and local agencies responsible for carrying out activities under this subpart are doing so in accordance with the State plan, with the child protection standards set forth in section 430(a)(12) and 435, and with any other criteria which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under title XIX or XXI;

(2) for each child in foster care under the responsibility of the State, the services necessary to place the child with appropriate adoptive parents while in the care of such parents as a foster child, and the child’s removal from the home of a relative, a guardian, or the care of such parents as an adoptive parent or guardian, and

(3) for each child who has been determined by the State, pursuant to a voluntary placement agreement, the age, gender, and family income of the child, the services necessary to place the child with appropriate adoptive parents while in the care of such parents as a foster child, and the child’s removal from the home of a relative, a guardian, or the care of such parents as an adoptive parent or guardian;

(4) for each child who has been determined by the State, pursuant to a voluntary placement agreement, the age, gender, and family income of the child, the services necessary to place the child with appropriate adoptive parents while in the care of such parents as a foster child, and the child’s removal from the home of a relative, a guardian, or the care of such parents as an adoptive parent or guardian;

(5) for each child who has been determined by the State, pursuant to a voluntary placement agreement, the age, gender, and family income of the child, the services necessary to place the child with appropriate adoptive parents while in the care of such parents as a foster child, and the child’s removal from the home of a relative, a guardian, or the care of such parents as an adoptive parent or guardian.

(e) REPORT.—Each panel established under subsection (a) shall make a public report of its activities after each meeting.

SEC. 435. FOSTER CARE PROTECTION REQUIRED FOR ADDITIONAL FEDERAL PAYMENTS.

(a) REDUCTION OF GRANT.—A State shall not receive a grant under section 431(a) unless such State—

(1) has conducted an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months preceding the inventory, and determined the appropriateness of, and necessity for, the current foster care placement, whether or not the child should be returned to his parents or should be freed for adoption, and the services necessary to facilitate the return of the child or the adoption by the child for adoption or legal guardianship;

(2) has implemented and is operating to the satisfaction of the Secretary—

(A) a foster care review system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding 12 months can readily be determined;

(B) a case review system (as defined in section 437(4)) for each child receiving foster care under the supervision of the State;

(C) a service program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship;

(b) ADDITIONAL REQUIREMENTS.—A State shall not receive a grant under section 431(a) unless such State—

(1) has completed an inventory of the type specified in subsection (a)(1);

(2) has implemented and is operating the program and systems specified in subsection (a)(2); and

(3) has implemented a preplacement preventive service program designed to help children return to their families, and

(c) PRESUMPTION FOR EXPENDITURES.—Any amounts expended by a State for the purpose of complying with the requirements of subsection (a) or (b) shall be conclusively presumed to have been expended for child welfare services.

SEC. 436. DATA COLLECTION AND REPORTING.

(a) ANNUAL REPORTS ON STATE CHILD WELFARE PROGRAMS.—On the date that is 3 years after the effective date of this subpart and annually thereafter, each State to which a grant is made under section 431(a) shall submit to the Secretary such reports of the data and information on the extent to which the State is making progress toward achieving the goals of the State child protection program.

(b) STATE DATA REPORTS.

(1) BIENNUAL REPORTS.—Each State to which a grant is made under section 431(a) shall biennially submit to the Secretary a report that includes the following information with respect to each child within the State receiving publicly-supported child welfare services under the State program funded under this subpart:

(A) Whether the child is receiving foster care services under the program funded under this subpart;

(B) The age, gender, and family income of the child;

(C) The county of residence of the child;

(D) Whether the child was removed from the family;

(E) Whether the child entered foster care under the responsibility of the State;

(F) The type of out-of-home care in which the child is placed (including institutional care, foster care, family foster care, or relative placement);

(G) The child’s permanency planning goal, such as family reunification, kinship care, adoption, or independent living;

(H) Whether the child was released for adoption;

(I) Whether the child exited from foster care, and if so, the reason for the exit, such as return to family, placement with relatives, adoption, independent living, or death.
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[(L) The response of the State to the findings and recommendations of the citizen review panel established under section 434.]

[(M) Other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.]

[(N) AUTHORITY OF STATES TO USE ESTATES.—The term ‘child-care institution’ means a private child-care institution, or a public child-care institution which accommodates no more than 25 children.]

[(O) (1) The health and education record (as described in paragraph (3)(C)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.]

[(P) FOSTER CARE MAINTENANCE PAYMENTS.—(A) IN GENERAL.—The term ‘foster care maintenance payments’ means payments to cover the cost of the items described in that subparagraph with respect to such child, and reasonable travel to the child’s home for visitation.]

[(Q) SPECIAL RULE.—In cases where—(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution; and

[(R) payments described in subparagraph (A) shall also in-clude a discussion of the appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviat-

[(S) In general.—A State may comply with a requirement to provide precise numerical information described in subsection (b) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods.]

[(T) SECRETARIAL REVIEW OF SAMPLING METHODS.—The Secretary shall periodically review the sampling methods used by a State to comply with a requirement to provide information described in subsection (b). The Secretary may require that the sampling methods be updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.]

[(U) FOSTER CARE MAINTENANCE PAYMENTS.—(A) IN GENERAL.—The term ‘foster care maintenance payments’ means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child’s personal entertainment, liability insurance with respect to such child, and reasonable travel to the child’s home for visitation. In the case of institutional care, such term shall include the rea-

[(V) each child has a case plan designed to achieve placement in the least restrictive (most family like) and most appropriate setting available in close proximity to the parents’ home, consistent with the best interest and special needs of the child, where appropriate, for a child age 16 or over, the case plan must also include a written description of the services which will help such child prepare for the transition from foster care to independent living.]

[(W) FOSTER CARE REVIEW SYSTEM.—The term ‘foster care review system’ means a procedure for assuring that—(A) appropriate services are provided under such agreement; and

[(X) any other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.]

[(Y) The number of children for whom a report of maltreatment is made under section 431(a) shall annu-

[(Z) report is a determination of substantiated abuse or neglect, the number for whom a report of maltreatment was unsubstantiated, and the number for whom a report of maltreatment was determined to be false.]

[(aa) each child has a case plan designed to achieve placement in the least restrictive (most family like) and most appropriate setting available in close proximity to the parents’ home, consistent with the best interest and special needs of the child, and, in the case of a child who has attained age 16, the services needed to assist the child, and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child; and

[(bb) visit such child in such home or in an institution as are necessarily required to cover the cost of the items described in that subparagraph with respect to such child, and reasonable travel to the child’s home for visitation.]

[(cc) if the child has been placed in a foster family home or child-care institution a substan-

[(dd) the number of children reported to the State during the year as alleged victims of abuse or neglect.

[(ee) the number of children for whom an investiga-

[(ff) the number of children receiving services.

[(gg) the number of abandoned during the year, the number of such infants who were in the custody of the State, or the number of such infants who were in the custody of the State as a result of abandonment and adoption.

[(hh) the number of deaths occurring while children were in the custody of the State.

[(ii) the number of children under investigation for abuse or neglect.

[(jj) the number of children served by the State independent living program.

[(kk) the average length of stay of children in out-of-home care.

[(ll) the response of the State to the findings and recommendations of the citizen review panel established under section 434.

[(mm) other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.]

[(nn) SCOPE OF STATE PROGRAM FUNDED UNDER THIS SUBPART.—As used in subsection (b), the term ‘State program funded under this subpart’ includes an equivalent State program.

[(oo) SEC. 437. DEFINITIONS.—The Secretary shall periodically review the sampling methods used by a State to comply with a requirement to provide information described in subsection (b) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods.

[(pp) the year, the number of such infants who were in the custody of the State, or the number of such infants who were in the custody of the State as a result of abandonment and adoption.

[(qq) the number of deaths occurring while children were in the custody of the State.

[(rr) the number of children under investigation for abuse or neglect.

[(ss) the number of children served by the State independent living program.

[(tt) the average length of stay of children in out-of-home care.

[(uu) the response of the State to the findings and recommendations of the citizen review panel established under section 434.

[(vv) other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

[(ww) other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

[(xx) the status of each child is reviewed periodi-

[(yy) if the child has been placed in a foster family home or child-care institution a substan-

[(zz) the number of children for whom a report of maltreatment is made under section 431(a) shall annu-

[(a) the child or the parents who are the subject of the review.

[(b) the status of each child is reviewed periodi-

[(c) the number of families that received pre-

[(d) the number of infants abandoned during the year, the number of such infants who were adopted, and the length of time between abandonment and adoption.

[(e) the number of deaths occurring while children were in the custody of the State.

[(f) the number of children served by the State independent living program.

[(g) the number of children under investigation for abuse or neglect.

[(h) the number of children served by the State independent living program.

[(i) the number of children receiving services.

[(j) the number of abandoned during the year, the number of such infants who were in the custody of the State, or the number of such infants who were in the custody of the State as a result of abandonment and adoption.

[(k) the number of deaths occurring while children were in the custody of the State.

[(l) the number of children under investigation for abuse or neglect.

[(m) the number of children served by the State independent living program.

[(n) the average length of stay of children in out-of-home care.

[(o) the response of the State to the findings and recommendations of the citizen review panel established under section 434.

[(p) other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

[(q) other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

[(r) other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

[(s) the status of each child is reviewed periodi-

[(t) the status of each child is reviewed periodi-

[(u) the status of each child is reviewed periodi-

[(v) the status of each child is reviewed periodi-

[(w) the status of each child is reviewed periodi-

[(x) the status of each child is reviewed periodi-

[(y) the status of each child is reviewed periodi-

[(z) the status of each child is reviewed periodi-

[the adoption assistance agreement] a written agreement, binding on the parties to the agreement, between the State, other relevant agencies and the prospective adoptive parents of a minor child which at a minimum—

[(1) The administrative review. The term ‘ad-

[(2) ADOPTION ASSISTANCE AGREEMENT.—The term ‘adoption assistance agreement’ means a written agreement, binding on the parties to the agreement, between the State, other relevant agencies and the prospective adoptive parents of a minor child which at a minimum—

[(A) specifies the nature and amount of any payments, services, and assistance to be pro-

[(B) stipulates that the agreement shall re-

[(C) THE number of families that received pre-

[(D) The number of infants abandoned dur-

[(E) THE number of deaths occurring while

[(F) THE number of children served by the

[(G) THE number of children under inves-

[(H) QUANTITATIVE MEASUREMENTS DEMONSTRAT-

[(I) THE types of maltreatment suffered by

[(J) OTHER information as required by the

[(K) THE average length of stay of children in

[(L) THE response of the State to the find-

[(M) OTHER information as required by the

[(N) AUTHORITY OF STATES TO USE ESTATES.—

[(O) A DMINISTRATIVE REVIEW.—The term ‘ad-

[(P) SCOPE OF STATE PROGRAM FUNDED UNDER THIS SUBPART.—As used in subsection (b), the term ‘State program funded under this subpart’ includes an equivalent State program.
"(7) FOSTER FAMILY HOME.—The term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of which the child is a ward, by the child's guardian, by a court of competent jurisdiction, or by a voluntary body or agency providing services of this type, as meeting the standards established for such licensing.

"(8) STATE.—The term 'State' means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(9) VOLUNTARY PLACEMENT.—The term 'voluntary placement' means an out-of-home placement of a minor, by or with participation of the State in which the parents or guardians of the minor have requested the assistance of the State and signed a voluntary placement agreement.

"(10) VOLUNTARY PLACEMENT AGREEMENT.—The term 'voluntary placement agreement' means a written agreement, binding on the parties to the agreement, between the State, any other agency acting on its behalf, and the parents or guardians of a minor who specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

SEC. 12702. CONFORMING AMENDMENTS.

(a) REPEAL OF PART E OF TITLE IV OF THE SOCIAL SECURITY ACT.—(A) The term 'Social Security Act' (42 U.S.C. 671-679) is hereby repealed.

(b) REPEAL OF SECTION 13712 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993.—(A) Section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) is hereby repealed.

(c) REPEAL OF SECTION 435.—Section 435 of the Social Security Act (42 U.S.C. 671-679) is hereby repealed, as amended by section 12701, is repealed on April 1, 1996.

SEC. 12703. EFFECTIVE DATE; TRANSITION RULE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect as if enacted on October 1, 1995.

(b) TRANSITION RULE.—(1) A STATE OPTION TO CONTINUE PROGRAMS.—

(A) 9-MONTH EXTENSION.—A State may continue the State programs under subpart 2 of part B and part E of title IV of the Social Security Act, as in effect on September 30, 1995 (for purposes of this paragraph, the "State programs") until June 30, 1996.

(B) NO INDIVIDUAL OR FAMILY ELIGIBILITY UNDER CONTINUED STATE PROGRAMS.—Notwithstanding any other provision of law or any rule of law, no individual or family is entitled to aid under the State programs of any State on or after the date of the enactment of this Act.

(C) LIMITATIONS ON FEDERAL OBLIGATIONS.—If a State elects to continue the State programs pursuant to subparagraph (A), the total obligations of the Federal Government to the State under subpart 2 of part B and part E of title IV of the Social Security Act (as such subpart and part are in effect on September 30, 1995) after the date of the enactment of this Act shall not exceed an amount equal to—

(i) the grant to the State under section 431(a) as in effect on the date of enactment of this Act; and

(ii) any obligations of the Federal Government to the State under such subpart and part as in effect on September 30, 1995, with respect to expenditures by the State during the period that begins on October 1, 1995, and ends on the date before the date of the enactment of this Act.

(D) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 430(a) of the Social Security Act (as in effect pursuant to the amendment made by section 12701 of this Act) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant limitations and formula in this section (as amended by the amendment made by section 12701 of this Act) for fiscal year 1996, and is deemed to constitute the State's acceptance of any reductions in the amounts provided under the amendment made by section 12701 of this Act for fiscal year 1996.

(E) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(F) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal payments may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended in this subtitle and which involve expenditures in such case, where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—

(i) use the single audit procedure to review and resolve any claims in connection with the close out of accounts, and

(ii) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the grants made under this subtitle.

Subtitle I—Child Care

SEC. 12801. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Child Care and Development Block Grant Amendments of 1995."

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment made to a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9857 et seq.).

Subtitle II—FUNDING OF APPROPRIATIONS AND ENTITLEMENT AUTHORITY

(a) IN GENERAL.—Section 658B (42 U.S.C. 9858) is amended to read as follows:

"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

"(a) GENERAL—(1) APPROPRIATIONS.—Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this section for such year.

"(2) GRANTS.—The Secretary shall use any amounts under any grant awarded to a State under this section as determined by the Secretary to fund child care programs.

"(b) ENTITLEMENT.—Subject to the amount appropriated under paragraph (3), each State shall only be used to provide child care assistance.

"(c) APPLICATION OF CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT.—Notwithstanding any other provision of law, the Secretary determines that amounts under any grant awarded to a State under this subsection for fiscal year 1995 will not be used by such State for carrying out the purposes of a State's Child Care and Development Plan, and the Secretary shall make such amounts available for carrying out such purpose to 1 or more other States which apply for such funds to the extent the Secretary determines that such other States will be able to use such additional amounts for carrying out such purpose. Such available amounts shall be redistributed to a State pursuant to section 402(i) as in effect before October 1, 1995, and thereafter (as such section was in effect before October 1, 1995) for child care assistance or services were provided during a fiscal year from funds for fiscal year 1995.

(b) FUNDING FOR CHILD CARE.

"(1) GENERAL CHILD CARE ENTITLEMENT.—

(A) ENACTMENT.—Subject to subparagraph (B), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this subsection for such year.

(B) AMOUNT.—Subject to subparagraph (C), the amount of a grant awarded to a State for a fiscal year under this section shall be the amount of Federal payments for the State for fiscal year 1994 under section 403(h) (as such section was in effect before October 1, 1995) for child care assistance pursuant to section 402(i) of such Act as amount related to the total amount of such Federal payments to all States for such fiscal year.

(C) TRANSITION FUNDING.—No grant shall pay to each eligible State in a fiscal year an amount, under a grant subparagraph (A), equal to the Federal medical assistance percentage for such State for fiscal year 1995 as defined in section 1905(b) of so much of the expenditures by the State for child care in such year as exceed the State's set-aside for such State under subparagraph (A) for such year and the amount of State expenditures in fiscal year 1995 that equal the non-Federal share for the programs described in subparagraphs (A), (B) and (C) of paragraph (1).

"(2) APPROPRIATIONS.—There is authorized to be appropriated, and there is appropriated, to carry out this section—

(A) $1,170,000,000 for fiscal year 1996;

(B) $1,240,000,000 for fiscal year 1997;

(C) $1,320,000,000 for fiscal year 1998;

(D) $1,400,000,000 for fiscal year 1999;

(E) $1,500,000,000 for fiscal year 2000;

(F) $1,625,000,000 for fiscal year 2001; and

(G) $1,745,000,000 for fiscal year 2002.

"(3) REDISTRIBUTION.—With respect to any fiscal year for which the Secretary determines that amounts under any grant awarded to a State under this subsection for such fiscal year will not be used by such State for carrying out the purposes of a State's Child Care and Development Plan, the Secretary shall make such amounts available for carrying out such purpose to 1 or more other States which apply for such funds to the extent the Secretary determines that such other States will be able to use such additional amounts for carrying out such purpose. Such available amounts shall be redistributed to a State pursuant to section 402(i) (as in effect before October 1, 1995) by substituting 'the number of children residing in all States applying for such funds' for 'the number of children residing in the United States immediately preceding fiscal year'. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence for purposes of a State's Child Care and Development Block Grant Act (as such Act was in effect before October 1, 1995) for carrying out the purposes of a State's Child Care and Development Plan shall be included as part of such State's payment (as determined under this subsection) for such year.

"(4) USE OF FUNDS.—(A) IN GENERAL—Amounts received by a State under this section shall only be used to provide child care assistance.

"(B) USE FOR CERTAIN POPULATIONS.—A State shall use the amount of Federal funds provided to the State under this section to provide child care assistance to families which are receiving assistance under a State program in which the parent, family, or children involved are eligible for assistance under a State program which is based on a demonstration project authorized under section 402(i) of the Child Care and Development Block Grant Act of 1990, integrated by the Omnibus Budget Reconciliation Act of 1993 (Public Law 102-325), and signed a voluntary placement agreement.

"(C) APPLICATION OF CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT.—Notwithstanding any other provision of law, amounts provided to a State under this section shall be used in accordance with the purpose of the funds provided to the State under such Act, and be subject to requirements and limitations of such Act.

"(D) TRANSITION RULE.—
"(1) IN GENERAL.—Amounts obligated to a State under this section for fiscal year 1996 shall not exceed—

(A) the amount for which a State is eligible under this subsection for such fiscal year; and

(B) the amounts obligated to the State for such fiscal year under the provisions of law referred to in subsection (a)(1)(A) (as such provisions are in effect on the day before the date of enactment of this section).

"(2) ACCEPTANCE OF LIMITATION.—The submission of a plan by a State under section 401(a) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant reductions under paragraph (1). If amounts are provided to a State under this section prior to the submission for fiscal year 1996 is deemed to constitute the acceptance of such amounts by the State shall constitute the State's acceptance of such reductions."

SEC. 12803. LEAD AGENCY.

Section 6580(b) (42 U.S.C. 9858b(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "State" the first place that such appears and inserting "governmental or nongovernmental"; and

(B) in subparagraph (C), by inserting "with sufficient time and Statewide distribution of the notice of such hearing," after "hearing in the State"; and

(2) in paragraph (2), by striking the second sentence.

SEC. 12804. APPLICATION AND PLAN.

Section 658E (42 U.S.C. 9858e) is amended—

(1) in subsection (b)—

(A) by striking "implemented—" and all that follows through "(2)" and inserting "implemented--";

(B) by striking "for subsequent State plans";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(ii) by striking "except" and all that follows through "(2)" and inserting "and provide a detailed description of such procedures";

(iii) in subparagraph (C)—

(i) by striking "Provide assurances" and inserting "Provide assurances";

(ii) by inserting before the period at the end "and provide a detailed description of such record is maintained and is made available";

(iv) by amending subparagraph (D) to read as follows—

(D) CONSUMER EDUCATION INFORMATION.—Certify that the State will collect and disseminate to parents of eligible children and the general public, consumer education information that will promote informed child care choices."

(3) in section 658K (42 U.S.C. 9858i) is amended—

(A) in paragraph (2)—

(B) by striking "for child care services on sliding fee scale basis, activities that improve the quality or availability of such services, and any other activity that the State determines to be appropriate"; and

(C) by striking clause (iv) and inserting "(iv) by adding at the end thereof the following—

(ID) ASSISTANCE FOR CERTAIN FAMILIES.—A State shall ensure that a substantial portion of the amounts available (after the State has complied with the requirement of section 419(b)(2) of the Social Security Act) to the State for child care services for each fiscal year is used to provide assistance to low-income working families described in paragraph (2)(F)."

SEC. 12805. LIMITATION ON STATE ALLOTMENTS.

Section 658(b) (42 U.S.C. 9858b(b)) is amended—

(1) in paragraph (1), by striking "No" and inserting "Except as provided in section 6580(c)(1)(A)";

(2) in paragraph (2), by striking "referred to in section 6580(c)(1)(F)".

SEC. 12806. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

"A State that receives financial assistance under this subchapter shall use not less than 3 percent of the total amounts received in each fiscal year for activities that are designed to provide comprehensive consumer education to parents and the public, including activities that increase parental choice, and activities designed to improve the quality and availability of child care (such as resource and referral services)."

SEC. 12807. ADMINISTRATION AND ENFORCEMENT.

Section 658(b) (42 U.S.C. 9858b(b)) is amended—

(1) in paragraph (1), by striking ";" and inserting "and shall have"; and all that follows through "(2)"; and

(2) by striking paragraph (2); and

(3) by redesigning paragraph (3) as paragraph (1)."
Secretary a report that includes aggregate data concerning—

"(A) the number of child care providers that received funding under this subchapter as separately and disaggregated based on the type of providers listed in section 6580(5);

"(B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;

"(C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;

"(D) the manner in which consumer education information is provided to parents and the number of parents to whom such information was provided; and

"(E) the total number (without duplication) of children and families served under this subchapter during the period for which such report is required to be submitted."; and

"(2) by striking paragraph (5) by striking "aapturement'' and inserting "an application''; and

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

"(4) Indian tribes or tribal organizations. — Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being utilized in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.'';

SEC. 12811. Definitions. — Section 6(e)(1) of the National School Lunch Act (42 U.S.C. 1758(b)(1)) is amended—

"(1) by striking in the first sentence by inserting "in accordance with and inserting "and" and inserting "an Indian tribe or tribe organization under subsection (c) that the Secretary determines is not being utilized in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.'';

SEC. 12901. Termination of Additional Payment for Lunches Served in High Free and Reduced Price Participation Schools. —

Section 4(b)(2) of the National School Lunch Act (42 U.S.C. 1758(b)(2)) is amended by inserting "and" after the semicolon at the end of the following: "for the 1995 school year and 1 cent more for each of the 1996 and 1997 school years'.

SEC. 12902. Direct Federal Expenditures. —

(a) Authorization. — Section 6(a) of the National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended by striking the second and fourth sentences.

(b) Amount of Commodity Assistance. — Section 6 of the Act is amended—

"(1) by striking subparagraph (E); and

"(2) by redesigning subsection (g) as subsection (f)."

SEC. 12903. Value of Food Assistance. —

(a) General. — Section 6(i) of the National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended—

"(1) by striking "in the first sentence—

"(a) by inserting for free and reduced price meals’’; and

"(b) by striking "11 cents'’ and inserting "14.5 cents’’; and

"(ii) by striking "1982'’ and inserting "1998’’

"(B) by inserting after the first sentence the following: ‘‘The national average value of donated foods, or cash payments in lieu thereof, for paid meals, shall be 12 cents, adjusted on January 1, 2001, and each January 1 thereafter to reflect changes in the Price Index for Food Used in Institutions.’’; and

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

"(B) Adjustments.—

"(I) in general.—Except as provided in subparagraph (A), the value of food assistance for each school shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions, and

"(II) round the result to the nearest lower cent increment.

Effective Date. —The amendment made by subsection (a)(1) shall become effective on January 1, 1996."

SEC. 12904. Reduced Price Lunches. —

(a) Maximum Price. — Section 9(b)(3) of the National School Lunch Act (42 U.S.C. 1758(b)(3)) is amended—

"(1) by striking the last sentence, by striking ‘‘The’’ and inserting ‘‘Except as provided in the succeeding 2 sentences, the’’; and

"(2) by adding at the end thereof the following: ‘‘In the case of the school year beginning July 1, 2000, the price charged for a reduced price lunch shall not exceed 45 cents. In the case of the school year beginning July 1, 2001, and each school year thereafter, the price charged for a reduced price lunch shall not exceed 50 cents.’’

(b) Reduced Price Meal Payment. — Section 11(a)(2) of the Act (42 U.S.C. 1759a(a)(2)) is amended—

"(1) by striking ‘‘cents’ and inserting ‘‘cents. Except as provided in the succeeding 2 sentences, the’’; and

"(2) by adding at the end thereof the following: ‘‘In the case of the school year beginning July 1, 2000, the special assistance factor for reduced price lunches shall be 5 cents less than the special assistance factor for free lunches. In the case of the school year beginning July 1, 2001, and each school year thereafter, the special assistance factor for reduced price lunches shall be 10 cents less than the special assistance factor for free lunches.’’

SEC. 12905. Lunches, Breakfasts, and Supplements. —

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

"(1) by designating the second and third sentences as subparagraphs (C) and (D), respectively; and

"(2) by striking subparagraph (D) (as so redesignated) and inserting the following:

"(D) Excluding. — Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—
and inserting the following:

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that follows through the end of paragraph (1) the Act is amended by striking ``(b)(1)'' and all
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unrounded adjustment for paid supplements for 1995; and

shall not include administrative costs). Obtaining, preparing, and serving food, but

operations (which cost shall include the costs of provided in this paragraph, payments to service in-

ance with subparagraphs (B) and (C); and

justment for the preceding school year; paragraph on the amount of the unrounded ad-


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be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

(iii) Other factors. — A family or group day care home that does not meet the criteria set forth in clause (ii) may elect to provide reimbursement factors determined in accordance with the following requirements:

(1)apro rateable for free or reduced price meals. In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clauses (ii)(II), (iii), and (v).

(bb) Ineligible Children. — In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (i).

(iii) Information and determinations. —

(aa) in general. — If a family or group day care home that elects to claim the factors under subclause (ii) and by a family or group day care home sponsoring organization that sponsors the home shall collect the necessary income information, as determined by the Secretary, from the parents or other caretakers.

(bb) Categorical Eligibility. — In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, a federally or State-subsidized child care program referred to in item (bb) if the home is located in a rural area.

(iv) Simplified meal counting and reporting. — The Secretary may prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (ii) and by a family or group day care home sponsoring organization that sponsors the home.

The procedures the Secretary prescribes may include 1 or more of the following:

(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii) and by the State agency.

(bb) Placing a home into 1 of 2 or more reimbursement tiers annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each reimbursement tier carrying a different reimbursement factor or factors established within the range of factors prescribed under subclause (I) and subclause (ii).

(c) Such other simplified procedures as the Secretary may prescribe.

(iii) Minimum verification requirements. — The Secretary shall establish minimum verification requirements.:

(1) Grants to states to provide assistance to families. — Section 17F(i)(3) of the Act is amended by adding at the end of paragraph (a) the following:

(3) In determining for a fiscal year or other period an amount under section 9 to be a child who is participating in or subsidized under a federally or State-subsidized child care program referred to in item (bb), the State shall provide to approved family or group day care home sponsoring organizations located in the State the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

(3) Use of data from preceding school year. — In determining for a fiscal year or other period an amount under section 9 to be a child who is participating in or subsidized under a federally or State-subsidized child care program referred to in item (bb), the State shall provide to approved family or group day care home sponsoring organizations the data to family or group day care home sponsoring organization that requests the list.

(iv) Duration of determination. — For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier 1 family or group day care home (as the term is defined in subparagraph (A)(iii)(I)) shall be in effect for 3 years unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier 1 family or group day care home.

(v) Conforming amendments. — Section 17(c) of the Act is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section, the place it appears in paragraphs 1, 2, and 3, (f) Reimbursement. — Section 17(f) of the Act is amended—

(1) in paragraph (3)—

(A) in subparagraph (B), by striking the third and fourth sentences; and

(B) in subparagraph (C)—

(i) in clause (i)—

(I) by striking "(i)";

(II) by striking the second sentence; and

(III) by striking "and expansion funds" each place it appears; and

(ii) by striking clause (ii); and

(2) by striking paragraph (4).

(vi) Elimination of paperwork and outreach burden. — Section 17 of the Act is amended by striking subsection (k) and inserting "(k) Training and technical assistance. — A State participating in the program established under this section shall provide sufficient training, including monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection."

(h) Modification of adult care food program. — Section 17(o) of the Act is amended—

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

(A) by striking "day care centers" and inserting "day care centers for chronically impaired disabled persons"; and

(B) by striking "to persons 60 years of age or older" and inserting "or".

(2) in paragraph (2)—

(A) in subparagraph (A)—

(I) by striking "adult day care center" and inserting "day care center for chronically impaired disabled persons"; and

(II) in clause (i)—

(1) by striking "adult"; and

(2) by striking "adults" and inserting "persons"; and

(3) by striking "or persons 60 years of age or older"; and

(B) in subparagraph (B), by striking "adult day care services" and inserting "day care services for chronically impaired disabled persons".

(i) Unneeded provisions. — Section 17 of the Act is amended—

(1) by striking subsections (b) and (d); and

(2) by redesignating subsections (c) through (p), as so amended, as subsections (b) through (o), respectively; and

(3) in subsection (e), as redesignated by paragraph (2)—

(A) in paragraph (2)(A), by striking "subsections (b) and (q); and

(B) in paragraph (3)(C), by striking "subsections (b) through (o), respectively; and

(4) in subsection (c), as redesignated by paragraph (2)—

(A) in paragraph (2)(A), by striking "subsection (c)" and inserting "subsection (b)"; and

(B) in paragraph (3)(C), by striking "subsection (c)" and inserting "subsection (b)".

(j) Conforming amendments. —

(1) Section 11(a)(3)(A)(iv) of the Act (42 U.S.C. 1765a(a)(3)(A)(iv)) is amended by striking "17(c)" and inserting "17(b)".

(2) Section 17A(c) of the Act (42 U.S.C. 1766(a)(3)(B)) is amended by striking "17(c)" and inserting "17(b)".

(3) Section 17F(f) of the Act (42 U.S.C. 1766b(f)) is amended—
(A) in the subsection heading, by striking "AND ADULT"; and
(B) in paragraph (1), by striking "and adult".
(4) Section 1769(d) of the Act (42 U.S.C. 1769g) is amended by striking "and adult".
(5) Section 25(b)(1)(C) of the Act (42 U.S.C. 1769f(b)(1)(C)) is amended by striking "and adult".
(6) Section 3(l) of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103-448) is amended by striking "and adult".

(1) In GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (e) shall become effective on August 1, 1996.

(3) REGULATIONS.—

(A) INTERIM REGULATIONS.—Not later than February 1, 1996, the Secretary shall issue interim regulations to implement—
(i) the amendments made by paragraphs (1), (3), and (4) of subsection (e); and
(ii) section 1769(d) of the National School Lunch Act (42 U.S.C. 1769g).

(B) FINAL REGULATIONS.—Not later than August 1, 1996, the Secretary shall issue final regulations to implement the provisions of law referred to in subparagraph (A).

(4) STUDY OF IMPACT OF AMENDMENTS ON PROGRAM PARTICIPATION AND FAMILY DAY CARE LICENSING.

(1) IN GENERAL.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall study the impact of the amendments made by this section on—
(i) the number of family day care homes participating in the child care food program established under section 17 of the National School Lunch Act (42 U.S.C. 1766);
(ii) the number of day care home sponsoring organizations participating in the program;
(iii) the number of day care homes that are licensed, certified, registered, or approved for each State in accordance with regulations issued by the Secretary;
(iv) the rate of growth of the numbers referred to in subparagraphs (A) through (C);
(v) the nutritional adequacy and quality of meals served in family day care homes that—
(I) received reimbursement under the program prior to the amendments made by this section but do not receive reimbursement after the amendments made by this section; or
(II) received reimbursement under the program prior to the amendments made by this section but do not receive full reimbursement after the amendments made by this section; and
(vi) the proportion of low-income children participating in the program after the amendments made by this section.

(5) REQUIRED DATA.—Each State agency participating in the child care food program authorized under section 17 of the National School Lunch Act (42 U.S.C. 1766) shall submit to the Secretary on—
(A) the number of family day care homes participating in the program on July 31, 1996, and July 31, 1997;
(B) the number of family day care homes licensed, certified, registered, or approved for service on July 31, 1996, and July 31, 1997; and
(C) such other data as the Secretary may require to carry out this subsection.

SEC. 12908. PILOT PROJECTS.

(a) UNIVERSAL FREE PILOT.—Section 18(d) of the National School Lunch Act (42 U.S.C. 1769d)(9) is amended—

(1) by striking paragraph (3); and

(b) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) DEMO PROJECT OUTSIDE SCHOOL HOURS.—Section 18(e) of the Act is amended—

(1) in paragraph (A) of subsection (1), by striking "and adult";

(2) in paragraph (A) of subsection (2), by striking "AND ADULT"; and

(3) by inserting after paragraph (2) the following:

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

(5) by striking paragraph (5) and inserting the following:

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1997 and 1998.".

SEC. 12909. INFORMATION CLEARINGHOUSE.

Section 26 of the National School Lunch Act (42 U.S.C. 1769g) is repealed.

CHAPTER 2—CHIL D NUTRITION ACT

SEC. 12921. SPECIAL MILK PROGRAM.

(a) IN GENERAL.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) in paragraph (3), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands"; and

(2) in paragraph (8) and inserting the following:

"(8) ADJUSTMENTS.—(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

(i) base the adjustment made under paragraph (7) on the unrounded adjustment for the preceding school year;

(ii) adjust the result of amount in accordance with paragraph (7); and

(iii) round the result to the nearest lower cent increment.

(B) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the minimum rate for the remainder of the school year by rounding the previously established minimum rate to the nearest lower cent increment.

(C) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the minimum rate shall be the same as the minimum rate in effect on June 30, 1996.

(D) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1996.—In the case of the school year beginning July 1, 1996, the Secretary shall—

(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the school year beginning July 1, 1996;

(ii) adjust the resulting amount to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which the data are available; and

(iii) round the result to the nearest lower cent increment.

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

SEC. 12922. FREE AND REDUCED PRICE BREAKFASTS.

(a) IN GENERAL.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773b) is amended—

(1) in the second sentence of paragraph (1)(A), by striking "and each succeeding fiscal year"; and

(2) by striking paragraphs (2) and (4) and redesigning paragraphs (3) and (5), respectively; and

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

SEC. 12923. CONFORMING REIMBURSEMENT FOR PAID BREAKFASTS AND LUNCHES.

(a) IN GENERAL.—The last sentence of section 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773b(1)(B)) is amended by striking "cents" and "cents" and inserting "Act" and inserting "the same as the national average lunch payment for paid meals established under section 4(b) of the National School Lunch Act (42 U.S.C. 1753(b))".

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

SEC. 12924. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by striking subsections (f) and (g).

SEC. 12925. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

Section 16 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(1) in paragraph (1), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands"; and

(2) in the first sentence of paragraph (3)—

(A) by striking "at the end; and

(B) by striking "and (C)" and all that follows through "Governor of Puerto Rico".

SEC. 12926. NUTRITION EDUCATION AND TRAINING.

(a) USE OF FUNDS.—Section 19(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(f)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking "and (A)"; and

(ii) by striking clauses (ix) through (xxix) and inserting clauses (i) through (vi) as subparagraphs (A) through (H) and (i), respectively; and

(iv) in subparagraph (H), as so redesignated, by inserting "and" at the end,

(2) by striking paragraphs (2) and (4) and redesignating paragraph (3) as paragraph (2).

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19(g) of the Act is amended—

(1) in the first sentence of paragraph (2)(A), by striking "and each succeeding fiscal year"; and

(2) by striking paragraphs (2) and (4) and redesigning paragraphs (3) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(2) FISCAL YEARS 1997 THROUGH 2002.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1997 through 2002.

"(B) GRANTS.—

"(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than $75,000 per fiscal year.

"(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.

Subtitle J—Food Stamps and Commodity Distribution

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 13001. DEFINITION OF CERTIFICATION PERIOD.

Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by striking "Except
as provided” and all that follows and inserting the following: “The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months.”.

SEC. 13012. DEFINITION OF COUPON.

The second sentence of section 3(l) of the Food Stamp Act of 1977 (7 U.S.C. 2012(l)) is amended by striking “or other heating or cooling device,”.

SEC. 13013. TREATMENT OF CHILDREN LIVING AT COLLEGE.

The second sentence of section 3(l)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2012(l)(1)) is amended by striking “(who are not themselves parents living with their children or married and living with their spouses”.

SEC. 13014. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.

Section 3(1) of the Food Stamp Act of 1977 (7 U.S.C. 2012(l)) is amended by inserting after the third sentence the following: “Notwithstanding the provisions of the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentence, shall be considered one household, without regard to the common purchase of food and preparation of meals.”.

SEC. 13015. ADJUSTMENT OF THRIFTY FOOD INDEX.

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

(1) by striking “shall (1) make” and inserting the following: “shall—”;

(2) by striking “scale, (2) make” and inserting “scale;

(3) by striking “Alaska, (3) make” and inserting the following: “Alaska;

(3) make; and

(4) by striking “Columbia, (4) through” and all that follows through the section and inserting the following: “Columbia; and

(4) on October 1, 1996, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the preceding July; and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary may not reduce the cost of the diet in effect on September 30, 1996.”.

SEC. 13016. DEFINITION OF HOMELESS INDIVIDUAL.

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

SEC. 13017. STATE OPTION FOR ELIGIBILITY STANDARDS.

Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(b)) is amended by striking “section (d)(7);”.

SEC. 13018. EARNINGS OF STUDENTS.

Section 5(g)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(1)) is amended by striking “21” and inserting “19”.

SEC. 13019. ENERGY ASSISTANCE.

(a) IN GENERAL.—Section 5(d)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(1)) is amended by striking paragraph (11) and inserting the following: “(11) a 1-time payment or allowance made under a Federal or State law for the costs of weatherization, emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device,”.

(b) CONFORMING AMENDMENTS.—

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

(A) in paragraph (1), by striking “or other heating or cooling device,”;

(B) in paragraph (2), by striking subparagraph (A), by striking “plan for aid to families with dependent children approved” and inserting “program funded”; and

(2) in subparagraph (B), by striking “, not including emergency assistance,”;

[C] by inserting in paragraph (1) the following:

(III) expenses that are paid under section 16(b), that is attributable to public education that is preparatory for employment.

SEC. 13020. DEDUCTIONS FROM INCOME.

(a) IN GENERAL.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by striking subsection (d) and inserting the following:

(1) EXPENSES EXCLUDED.—

(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (a)(3), an amount paid on behalf of a household under a Federal or State law to provide energy assistance to a household shall be considered money payable directly to the household.

(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (a)(7), an expense paid on behalf of a household under a Federal or State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.

(C) AMOUNT OF EXPENSES.—

(1) ENERGY ASSISTANCE PAYMENTS.—The amount of an energy assistance payment shall be the amount paid to the household.

(2) ENERGY ASSISTANCE EXPENSES.—The amount of an energy assistance expense shall be the amount paid on behalf of the household.

(b) DEDUCTIONS FROM INCOME.

(1) DEDUCTION.—

(A) IN GENERAL.—A household shall be entitled to a deduction for each dependent child under section 16(b), that is attributable to public education that is preparatory for employment.

(B) M AXIMUM AMOUNT OF DEDUCTION.—

(i) in the 48 contiguous States and the District of Columbia, $200 per month for each dependent child

(ii) in the Virgin Islands of the United States of America, $134, $229, $189, $269, and $118, respectively.

(c) EXCISE TAXES.—

(1) DEDUCTION.—

(A) IN GENERAL.—A household shall be entitled to a deduction for each excise tax paid on behalf of the household.

(B) METHOD OF CLAIMING DEDUCTION.—

(i) IN GENERAL.—A household shall be entitled to a deduction for each excise tax paid on behalf of the household.

(ii) M ETHOD.—The method described in clause (i) shall apply.

(iii) LIMITATION.—The deduction described in clause (i) shall not exceed the amount paid on behalf of the household.
except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.

(II) Restrictions on heating and cooling expenses. An allowance for a heating or cooling expense may not be used in the case of a household that—

(i) does not incur a heating or cooling expense; or

(ii) incurs a heating or cooling expense but is located in a public housing unit that has central utility meters and charges, without regard to the expense, only for excess utility costs; or

(iii) shares the expense with, and lives with, another individual not participating in the food stamp program, a household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.

(III) Mandatory allowance. —

(I) In general. —A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling 1 or more standards that do not include the cost of heating and cooling.

(bb) the Secretary finds that the standards will not result in an increased cost to the State agency.

(II) Household election. —A State agency that has not made the use of a standard utility allowance mandatory under subsection (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

(IV) Availability of allowance to recipients of non-Standard Assistance. —

(I) In general. —Subject to subsection (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to the energy provider.

(II) Separate allowance. —A State agency may use a separate standard utility allowance for households that do not use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in clause (I) or (II) of paragraph (C)) if the agency finds that the separate allowance will not reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

(V) Proration of assistance. —For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.

(a) Conforming amendment. —Section 11(e)(3) of the Act (7 U.S.C. 2068(e)(3)) is amended by striking "and" and inserting "or" and inserting a period at the end.

(b) Conforming amendment. —Section 11(e)(3) of the Act (7 U.S.C. 2068(e)(3)) is amended by striking "and" and inserting "or" and inserting a period at the end.

(2) with regard to the expense, only for excess utility costs; or

(3) if the individual becomes ineligible.

(b) In general. —Subject to subparagraph (A), the individual shall remain ineligible until the later of—

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

(II) the date that is 3 months after the date the individual became ineligible.

SEC. 13022. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNTED AS INCOME. —

Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(k)(2)) is amended—

(1) in clause (i), by striking "six months" and inserting "1 year"; and

(2) in clause (ii), by striking "1 year" and inserting "2 years".

SEC. 13023. DISQUALIFICATION OF CONVICTED INDIVIDUALS. —

Section 6(b)(1)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)(ii)) is amended—

(1) in subclause (I), by striking "or" at the end; and

(2) in subclause (III), by striking the period at the end and inserting "or"; and

(3) by inserting after subclause (III) the following:

"(iv) a conviction of an offense under subsection (b) or (c) of section 15 involving an item covered by subsection (b) or (c) of section 15 having a value of $500 or more;".

SEC. 13025. DISQUALIFICATION. —

(a) In general. —Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by striking "(d)" unless otherwise exempted by the provisions of this Act, that follows through the end of paragraph (1) and inserting the following:

"(d) Conditions of participation.—

(1) Work requirements.—

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

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

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

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

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

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

(v) voluntarily and without good cause—

(I) quits a job; or

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

(vi) fails to comply with section 20.

(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); or

(cc) whether an individual is in compliance with a requirement under subparagraph (A).
sections of the food stamp program that the State agency or State agency under subchapter (I) of title V of the Social Security Act (42 U.S.C. 601 et seq.).

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

(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive less than $50,000 in each fiscal year.

(1) ADDITIONAL MATCHING FUNDS.—Section 16(h)(2) of the Act (7 U.S.C. 2025(h)(2)) is amended by inserting before the period at the end the following: "; including the costs for case management and casework to facilitate the individual's dependency to self-sufficiency through work;"

(1) CONGRESSIONAL RECORD.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(2)) is amended by striking "(b) FUNDING. Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended by striking clause (ii)."

(1) SEC. 13028. COMPARABLE TREATMENT FOR DISQUALIFICATION.—(A) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(2)) is amended by striking subsection (i), as added by section 12104, as subsection (p); and

(2) by inserting after subsection (p) the following:

(1) SEC. 13028. COMPARABLE TREATMENT FOR DISQUALIFICATION.—(A) IN GENERAL.—If a disqualification is imposed on a member of a household for a failure of an individual to perform an action required under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

(2) RULES AND PROCEDURES.—If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under a State program funded under part A of title IV of the Act to impose the same disqualification under the food stamp program.

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

(4) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2026(e)) is amended by inserting: "(1) The State agency shall notify the State agency that makes the State Plan on the basis of the requirements of this section.

(2) The State agency that makes the State Plan may designate another State agency to have made, or is convicted in a State court of a crime relating to a State agency or any other provision of this paragraph, the Secretary shall carry out this paragraph for participants who are receiving benefits under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

(3) RULES AND PROCEDURES.—If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the food stamp program.

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

(5) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2026(e)) is amended by inserting: "(1) The State agency shall notify the State agency that makes the State Plan on the basis of the requirements of this section.

(2) The State agency that makes the State Plan may designate another State agency to have made, or is convicted in a State court of a crime relating to a State agency or any other provision of this paragraph, the Secretary shall carry out this paragraph for participants who are receiving benefits under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

(3) RULES AND PROCEDURES.—If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the food stamp program.

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

(5) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2026(e)) is amended by inserting:

(1) SEC. 13029. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2026) as amended by section 13028, is further amended by inserting after subsection (i) the following:

(1) SEC. 13029. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.—An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a State court of making, a fraudulent statement or representation with respect to the identity or place of residence of the

(2) SEC. 13029. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.—An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a State court of making, a fraudulent statement or representation with respect to the identity or place of residence of the
individual in order to receive multiple benefits simultaneously under the food stamp program.”

SEC. 13030. DISQUALIFICATION OF FLEEING FELONS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 1903), as amended by section 13029, is further amended by inserting after subsection (j) the following:

“(k) DISQUALIFICATION OF FLEEING FELONS.—No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of any household if the individual is—

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

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

SEC. 13031. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 1903), as amended by section 13030, is further amended by inserting after subsection (k) the following:

“(l) CUSTODIAL PARENT’S COOPERATION WITH CHILD SUPPORT AGENCIES.—

“(1) in general.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as ‘the individual’) who is living with and exercising joint parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) by:

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

“(B) in obtaining support for—

“(i) the child; or

“(ii) the individual and the child.

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

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

“(m) NON-CUSTODIAL PARENT’S COOPERATION WITH CHILD SUPPORT AGENCIES.—

“(1) in general.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this section as ‘the individual’) shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) by—

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

“(B) in providing support for the child.

“(2) refusal to cooperate.—(A) guidelines.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

“(B) measures.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

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

“(4) privacy.—The State agency shall provide safeguards to restrict the use of information collected in administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.

SEC. 13032. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 1903), as amended by section 13031, is further amended by inserting after subsection (m) the following:

“(n) disqualification for child support arrears.—

“(1) in general.—No individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

“(2) exceptions.—Paragraph (1) shall not apply if—

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

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

SEC. 13033. REQUIREMENT.

(a) in general.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 1903), as amended by section 13032, is further amended by inserting after subsection (n) the following:

“(o) work requirement.—

“(1) definition of work program.—In this subsection, the term ‘work program’ means—

“(A) a program under the job training partnership act (29 U.S.C. 2915 et seq.); or

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

“(C) a program of employment or training operated or supervised by a State or political subdivision of a State that meets standards approved by the Secretary.

“(2) work requirement.—Subject to the other provisions of this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12-month period, the individual—

“(i) does not—

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

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

“(ii) has an unemployment rate of over 10 percent; or

“(iii) has been certified as physically or mentally unfit for employment; or

“(iii) is unable to exercise gainful work activity because of a disability under the Social Security Act (42 U.S.C. 1381a et seq.) to the extent that the individual is determined to be unable to work 20 hours or more per week due to the individual’s disability; or

“(c) income and resources.—(1) in general.—The individual shall be determined to be an eligible family unit for purposes of this section if—

“(A) the individual meets the income standard under section 6(b)(2) and

“(B) the individual meets the resources standard under section 6(c)(2).

“(2) alternative calculation.—In the case of an individual who—

“(A) is a member of any household during any month and

“(B) does not meet the income and resources standards under paragraph (1), the individual shall be determined to be an eligible family unit for purposes of this section if—

“(i) the individual meets the income standard under section 6(b)(1); and

“(ii) the individual has resources not exceeding $1,000 as of the beginning of the month.
and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse.

"(ii) effective not later than 2 years after the effective date of this clause, to the extent practicable, measures that permit a system to differentiate items of food that may be acquired with an allotment from items of food that may not be acquired with an allotment;"

"(D) in subparagraph (B), by striking "and" at the end and inserting "and"; and"

"(E) in subparagraph (H), by striking the period at the end and inserting "; and"; and"

"(F) by adding at the end following:

"(7) REPLACEMENT OF BENEFITS.—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer system shall be similar to the regulations in effect for a paper food stamp issuance system.

"(8) REPLACEMENT CARD FEE.—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.

"(9) OPTIONAL PHOTOGRAPHIC IDENTIFICATION.—

"(A) IN GENERAL.—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.

"(B) OTHER AUTHORIZED USERS.—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of the household or any authorized representative of the household may utilize the card.

SEC. 13035. VALUE OF MINIMUM ALLOTMENT.

The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "five days" and inserting "seven days; and"

"(9) by adding at the end following:

"(C) may begin at a later date than the disqualification under this Act of an approved retail store or concern for the purpose of determining whether the store or concern should be approved as a retailer who is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 2427) is amended—"

"(A) by striking "five days" and inserting "seven days; and"

"(B) by inserting "and" at the end;"

"(C) by striking subparagraphs (B) and (C); and"

"(D) by redesigning subparagraph (D) as redesigning paragraph (B) and substituting "as redesignated by paragraph (3), by striking "(B), (C) or (C)"

SEC. 13045. WITHDRAWAL FALSE HEARING REQUESTS.

Section 12(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended—

"(1) in subsection (a)(1) by striking "five days" and inserting "seven days; and"

"(2) by striking "and" at the end;"

"(3) by inserting at the end:

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

"(2) by inserting at the end:

"(3) by inserting at the end:

"(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of a false application for an approval or reauthorization of an application to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.

SEC. 13047. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

"(a) DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish specific time periods during which authorization to accept and redeem coupons, or to redeem benefits through an electronic benefit transfer system, shall be void under the food stamp program.

"(b) IN GENERAL.—The Secretary shall, in determining whether the store or concern should be approved as a retailer who is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 2427) is amended—"

"(A) by striking "five days" and inserting "seven days; and"

"(B) by inserting "and" at the end;"

"(C) by striking subparagraphs (B) and (C); and"

"(D) by redesigning subparagraph (D) as redesigning paragraph (B) and substituting "as redesignated by paragraph (3), by striking "(B), (C) or (C)"
collect any overissuance of coupons issued to a household by—
``(A) reducing the allotment of the household, or
``(B) withholding amounts from unemployment compensation paid to any member of the household under subsection (c),
``(C) recovering from Federal pay or a Federal income tax refund under subsection (d), or
``(D) by any other means.
``(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.
``(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons under this section, any member of the household being found eligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—
``(A) 10 percent of the monthly allotment of the household; or
``(B) $10.
``(4) PROCEDURES.—A State agency shall collect and recover coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment; and
``(2) in subsection (d)—
``(A) by striking ‘‘as determined under subsection (b)’’ and inserting ‘‘as determined under subsection (b)(1);’’ and
``(B) by inserting before the period at the end of the fourth sentence ‘‘or a Federal income tax refund as authorized by section 3720A of title 31, United States Code’’.
``(c) CONFORMING AMENDMENTS.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended—
``(1) by redesignating the first through seventeenth sentences as paragraphs (1) through (17), respectively; and
``(2) by adding at the end the following: ‘‘The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by inserting ‘‘strick 1999’’ and inserting ‘‘2002’’.
``(d) AUTHORIZATION OF PILOT PROJECTS.—The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended by adding at the end the following: ‘‘In carrying out an employment initiatives program under this subsection, each State that has elected to carry out an employment initiatives program under paragraph (1) of this subsection may use amounts equal to the food stamp allotments that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, and in lieu of providing benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).’’
``(e) AUTHORIZATION OF PILOT PROGRAM.—The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following: ‘‘The Secretary shall carry out an employment initiatives program under paragraph (1) of this subsection and is no longer eligible under subsection (e)(4) of section 8(b) the amount received under subparagraph (A) in accordance with the work supplementation or support program, under this subsection and is no longer eligible under subsection (e)(4) of section 8(b) the amount received under subparagraph (A) in accordance with the work supplementation or support program, in lieu of providing the allotment that the household would receive but for the operation of this subsection; (c) for purposes of— (i) section 8(a)(8), the amount received under this subsection shall be excluded from household income and resources; and (ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household;”.
``(1) the household shall not receive a allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.
``(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection; (c) for purposes of— (i) section 8(a)(8), the amount received under this subsection shall be excluded from household income and resources; and (ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household;”.
``(D) ADDITIONAL PAYMENTS.—Each State that has elected to carry out an employment initiatives program under paragraph (1) of this subsection, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and (ii) pay the cost of any increase in cash benefits required by clause (i).
``(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household— (A) has worked in unsubsidized employment for not less than the preceding 90 days; and (B) has earned not less than $350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days.
``(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and (ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income; (D) is continuing to earn not less than $350 per month from the employment referred to in subparagraph (A); and (E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.
``(E) EVALUATION.—A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.”.
``(3) REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.—The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)) is amended by striking ‘‘7,947,000,000’’ and inserting ‘‘$10,000,000,000’’. Each year the term ‘‘the ceiling’’ is used in the first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)) is amended by inserting ‘‘$1,143,000,000’’ for each of fiscal years 1995 and 1996, $1,182,000,000 for fiscal year 1997, H 13613 CONGRESSIONAL RECORD — HOUSE
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SEC. 13051. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.
Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following: ‘‘This section is amended by inserting ‘‘strick 1999’’ and inserting ‘‘2002’’.
SEC. 13052. EMPLOYMENT INITIATIVES PROGRAM.
Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by adding at the end the following: ‘‘This section is amended by inserting ‘‘strick 1999’’ and inserting ‘‘2002’’.
SEC. 13053. EMPLOYMENT INITIATIVES PROGRAM.
Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following: ‘‘This section is amended by inserting ‘‘strick 1999’’ and inserting ‘‘2002’’.”
SEC. 13055. SIMPLIFIED FOOD STAMP PROGRAM.

"(a) DEFINITION OF FEDERAL COSTS.—In this section, the term 'Federal costs' does not include any Federal costs incurred under section 17.

(b) ELECTION.—Subject to subsection (d), a State agency may elect to carry out a simplified food stamp program if the State agency notifies the State agency not later than 30 days after the date of a notification under paragraph (1) of the Secretary under the Simplified Food Stamp Program that referred to in this section as a 'Program' in accordance with this section.

(c) OPERATION OF PROGRAM.—If a State agency elects to carry out a Program, within the State or political subdivision of the State—

"(1) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program; and

"(2) subject to subsection (f), benefits under the Program shall be determined under rules and procedures established by the State under—

"(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(B) the food stamp program (other than section 25); or

"(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the food stamp program (other than section 25).

(d) APPROVAL OF PROGRAM.—

"(1) STATE MANDATORY CONTRIBUTIONS.—A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

"(2) APPROVAL OF PLAN.—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

"(A) complies with this section; and

"(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.

"(e) INCREASED FEDERAL COSTS.—

"(1) DETERMINATION.—During each fiscal year and not later than 90 days after the end of each fiscal year, the Secretary shall determine whether a Program administered by a State agency is increasing Federal costs under this Act above the Federal costs incurred under the food stamp program in operation in the State or political subdivision of the State during the fiscal year prior to the implementation of the Program, adjusted for any changes in—

"(A) participation; and

"(B) the income of participants in the food stamp program that is not attributable to public assistance; and

"(C) the thrifty food plan under section 3(i).

"(2) NOTIFICATION.—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year or any portion of any fiscal year, the Secretary shall notify the applicable agency not later than 30 days after the Secretary makes the determination under paragraph (1).

"(3) ENFORCEMENT.—If the appropriate agency under paragraph (2) does not act within 90 days after the date of a notification under paragraph (2), the State agency shall submit a plan for approval by the Secretary for prompt corrective action to prevent the Program from increasing Federal costs under this Act.

(b) TERRITORIAL.—If the State agency does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency to operate a Program and the State agency shall not be eligible to operate a future Program.

"(f) RULES AND PROCEDURES.—

"(g) AMENDMENTS.—

"(1) IN GENERAL.—In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or political subdivision under section 17 of the Social Security Act (42 U.S.C. 601 et seq.) or under the food stamp program.

"(2) STANDARDIZED DEDUCTIONS.—In operating a Program, a State or political subdivision shall comply with the requirements provided under section 5(e).

"(3) REQUIREMENTS.—In operating a Program, a State or political subdivision shall comply with the requirements under section 7(e).

"(4) PROGRAM EXCLUSIVE.—In the Program, a State shall—

"(A) determine benefits under a Program in accordance with the other sections of this Act and shall not operate or administer a Program under this section; and

"(B) elect to participate in the Program under paragraph (3); and

"(C) an assurance that the State will comply with the requirements of the State plan under section 13 and 14, the calculation of the contribution to the Federal Assistance Block Grant in accordance with the other sections of this Act.

"(h) EFFECTIVE DATE.—

"(1) IN GENERAL.—In the case of a State that elects to participate in the program under paragraph (1), the State shall agree to contribute, for a fiscal year, an amount equal to—

"(A) the benefits issued in the State; multiplied by

"(B) the payment error rate of the State; minus

"(C) the benefits issued in the State, multiplied by

"(D) the payment error rate of the State.

"(2) ENFORCEMENT.—Notwithstanding sections 13 and 14, the calculation of the contribution shall be based solely on the determination of the Secretary of the Department of Health and Human Services.

"(C) DATA.—For purposes of implementing subparagraph (A) for a fiscal year, the Secretary shall use the data for the most recent fiscal year available.

"(i) ELECTION LIMITATION.—

"(A) IN GENERAL.—A State that participates in the program under this Act may not decline to elect to participate in the program as required under subsection (d)(1) of the Act.

"(B) LIMITATION.—Subsequent to re-entering the food stamp program under subparagraph (A), the State shall only be eligible to participate in the food stamp program in accordance with the other sections of this Act and shall not be eligible to elect to participate in the program established under section 13056 for a fiscal year.

"(C) PROGRAM EXCLUSIVE.—

"(A) IN GENERAL.—A State that is participating in the program established under subsection (b) or (c) shall not be subject to participation in the food stamp program under this Act except as provided in this section.

"(D) CONTRACT WITH FEDERAL GOVERNMENT.—Nothing in this section shall prohibit a State from contracting with the Federal Government for the provision of services or materials necessary to carry out a program under this section.

"(E) LEAD AGENCY.—A State desiring to receive a grant under this section shall designate, in an application submitted to the Secretary under subsection (e)(1), an appropriate State agency responsible for the administration of the program under this section as the lead agency.

"(F) APPLICATION AND PLAN.—

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

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

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

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

"(2) ANNUAL PLAN.—The State plan contained in the application under paragraph (1) shall be submitted for approval annually.
accordance with the terms and conditions of section 6(d)(4) for individuals under the program and shall be eligible to receive funding under section 16(h).

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

(2) NONCOMPLIANCE.—

(A) IN GENERAL.—If the Secretary, after reasonable cause for a hearing, finds that—

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

(ii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section; the Secretary shall notify the State of the finding and that no further grants will be made to the State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further grants to the State will be made with respect to the program or activity) until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

(B) OTHER PENALTIES.—In the case of a finding of noncompliance under subparagraph (A), the Secretary may, in addition to, or in lieu of, imposing the penalties described in subparagraph (A), impose other appropriate penalties, including a penalty on any money that is improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

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

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

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

(B) imposing penalties under this section.

(4) GRANT.—

(A) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under section 16(h), an amount that is equal to the sum of—

(i) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1992;

(ii) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1993 through 1994; and

(iii) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1995 through 1996.

(B) NONCOMPLIANCE.—If the Secretary determines that the noncompliance described in subparagraph (A) exceeds 6 percent of the total amount received by the State for administrative costs under section 16 for fiscal year 1992 through 1996, the Secretary shall reduce the grant made to States under this subsection, on a pro rata basis, to the extent necessary.

(C) ALLOCATION.—The Secretary shall reduce the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C).

(5) EMPLOYMENT AND TRAINING FUNDING.—

(A) IN GENERAL.—For each fiscal year, the Secretary shall reduce the grants made to States under subsection (c)(1) by the amount a State has agreed to contribute under subsection (c)(1)(C).

(B) REDUCTION.—The Secretary shall reduce the grants made to States under subsection (c)(1) by an amount that is equal to the sum of—

(i) the greater of—

(A) the amount received by the State for administrative costs under paragraph (1) for each fiscal year, with necessary adjustments for variances in the calculations under paragraph (1); or

(B) the greater of, as determined by the Secretary—

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

(2) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1993 through 1994.

(ii) the greater of—

(A) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1995; and

(B) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1994 through 1995.

(C) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of funds appropriated for fiscal years 1992 through 1996 would exceed the total amount of Federal funds provided to States under subsection (c)(1) for fiscal year 1992, the Secretary shall authorize the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C).

(D) ALLOCATION.—The Secretary shall reduce the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C).

(6) BLOCK GRANT FUNDING.—

(A) IN GENERAL.—Each fiscal year, the Secretary shall reduce the grants made to States under this Act by the amount a State has agreed to contribute under subsection (c)(1)(C).

(B) REDUCTION.—The Secretary shall reduce the grants made to States under subsection (c)(1) by an amount that is equal to the sum of—

(i) the greater of—

(A) the amount received by the State for administrative costs under section 16 for each fiscal year; and

(B) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1992 through 1994; or

(ii) the greater of—

(A) the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1993 through 1994; and

(B) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1995 through 1996.

(C) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of funds appropriated for fiscal years 1992 through 1996 would exceed the total amount of Federal funds provided to States under subsection (c)(1) for fiscal year 1992, the Secretary shall authorize the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C).

(D) ALLOCATION.—The Secretary shall reduce the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C).

(7) NONDISCRIMINATION.—

(A) IN GENERAL.—The Secretary shall not provide financial assistance for the operation of any program, project, or activity under this section if any person with responsibilities for the operation of the program, project, or activity discriminates in violation of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).

(8) GRANT CALCULATION.—

(A) IN GENERAL.—If the Secretary determines that the noncompliance described in subparagraph (A) exceeds 6 percent of the total amount received by the State for administrative costs under section 16 for fiscal year 1993, the Secretary shall—

(i) reduce the amount paid under this section to the State for fiscal year 1993; and

(ii) reduce the grants made to States under subsection (c)(1) by the amount a State has agreed to contribute under subsection (c)(1)(C).

(b) EMPLOYMENT AND TRAINING FUNDING.—

Section 16(h) of the Act (7 U.S.C. 2025(a)), as amended by section 1302(d)(2), is further amended by adding at the end the following:

"(6) BLOCK GRANT FUNDING.—Each State electing to operate a program under section 25 shall—

(A) receive the greater of—

(i) the total dollar value of the funds received under paragraph (1) for the fiscal year; and

(ii) the average per fiscal year of the total dollar value of all benefits received under paragraph (1) for each fiscal year; or

(C) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—Section 17 of the Act (7 U.S.C. 2025), as amended by section 1305(c)(2), is further amended by adding at the end the following:

"(1) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—The Secretary may
conduct research on the effects and costs of a State program carried out under section 25.".

SEC. 13057. AMERICAN SAMOA.
The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13056, is further amended by adding at the end the following:

``SEC. 26. TERRITORY OF AMERICAN SAMOA.

From amounts made available to carry out this Act, the Secretary may pay to the Territory of American Samoa an amount of $5,000,000 for each of fiscal years 1996 through 2002 to finance 100 percent of the expenditures for the fiscal year for a nutrition assistance program extended under section 13051(c) of Public Law 96-597 (48 U.S.C. 1469d(c)).''.

SEC. 13058. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.
The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13057, is further amended by adding at the end the following:

``SEC. 27. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

``(a) DEFINITION OF COMMUNITY FOOD PROJECTS.—In this section, the term 'community food project' means a community-based project that requires a 1-time infusion of Federal assistance to become self-sustaining and that is designed to—

``(1) meet the food needs of low-income people;
``(2) increase the self-reliance of communities in providing for their own food needs; and
``(3) promote comprehensive responses to local food, farm, and nutrition issues.
``(b) AUTHORITY TO PROVIDE ASSISTANCE.—
``(1) IN GENERAL.—From amounts made available to carry out this Act, the Secretary may make grants to eligible nonprofit entities to establish and carry out community food projects.
``(2) LIMITATION ON GRANTS.—The total amount of funds provided as grants under this section for any fiscal year may not exceed $2,500,000.
``(c) ELIGIBLE ENTITIES.—To be eligible for a grant under subsection (b), a private nonprofit entity must—

``(1) have experience in the area of—
``(A) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in these communities for agricultural producers; or
``(B) job training and business development activities for food-related activities in low-income communities as part of a multi-system, interagency approach.
``(2) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.
``(d) PREFERENCE FOR CERTAIN PROJECTS.—In selecting community food projects to receive assistance under subsection (b), the Secretary shall give a preference to projects designed to—

``(1) develop linkages between 2 or more sectors of the food system;
``(2) support the development of entrepreneurial projects;
``(3) develop innovative linkages between the for-profit and nonprofit food sectors; or
``(4) enhance the State's planning activities and multi-system, interagency approaches.
``(e) MATCHING FUNDS REQUIREMENTS.—
``(1) REQUIREMENTS.—The Federal share of the cost of a project or carrying out a community food project that receives assistance under subsection (b) may not exceed 50 percent of the cost of the project during the term of the grant.
``(2) CALCULATION.—In providing for the non-Federal share of the cost of carrying out a community food project, the entity receiving the grant may count towards the non-Federal share any payment in cash or in kind, fairly evaluated, including facilities, equipment, or services.
``(3) SOURCES.—An entity may provide for the non-Federal share through State government, local government, or private sources.
``(f) TERM OF GRANT.—
``(1) IN GENERAL.—A community food project may be supported by only a single grant under subsection (b).
``(2) TERM.—The term of a grant under subsection (b) may not exceed 3 years.
``(g) TECHNICAL ASSISTANCE AND RELATED INFORMATION.—
``(1) TECHNICAL ASSISTANCE.—In carrying out this section, the Secretary may provide technical assistance regarding community food projects, processes, and development to an entity seeking the assistance.
``(2) SHARING INFORMATION.—
``(A) IN GENERAL.—The Secretary may provide for the sharing of information concerning community food projects and issues among and between government, private-for-profit and nonprofit groups, and the public through publications, conferences, and other appropriate forums.
``(B) OTHER INTERESTED PARTIES.—The Secretary may share information concerning community food projects with researchers, practitioners, and other interested parties.
``(h) EVALUATION.—
``(1) IN GENERAL.—The Secretary shall provide for the evaluation of the success of community food projects supported using funds under this section.
``(2) REPORT.—Not later than January 30, 2002, the Secretary shall submit a report to Congress regarding the evaluation.
``(i) DEFINITIONS.—

``(1) F OOD PANTRY.—The term 'food pantry' means a public or charitable institution that, as an integral part of their normal activities, provides food to those people on a regular basis.
``(2) POVERTY LINE.—The term 'poverty line' has the same meaning given the term in section 673(d) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

``(j) SOUP KITCHENS.—The term 'soup kitchen' means a public or charitable institution, that, as an integral part of their normal activities, provides food to those people on a regular basis.

``(2) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term 'total value of additional commodities' means the total value of all additional commodities made available under section 214 that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).
``(3) V ALCUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term 'value of additional commodities allocated to each State' means the actual cost of those additional commodities made available under section 214 and allocated to each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).
``(4) SEEKING.—Each plan shall—

``(1) designate the State agency responsible for distributing the commodities received under this Act;
``(2) set forth a plan of operation and administration to expeditiously distribute commodities under this Act.
``(5) AO ELIGIBILITY.—Each plan shall—

``(1) designate the standards of eligibility for individual or household recipients of commodities, which shall require—
``(A) individuals or households to be comprised of needy persons;
``(B) individuals or households to be residing in the geographic area served by the distributing agency at the time of applying for assistance.
``(c) STATE ADVISORY BOARD.—The Secretary shall appoint an advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this Act in the State.
``(d) AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNDS.—Section 204(a)(1) of the Act (7 U.S.C. 612c note) is amended—

 ``(1) in paragraph (1), by inserting 'and $150,000' after the last period in the provision for fiscal year 1999; and
 ``(2) in paragraph (2), by inserting 'and $150,000' after the last period in the provision for fiscal year 1999.
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(b) by striking "for State and local" and all that follows through "under this title" and inserting "to pay for the direct and indirect administrative costs of the State related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this Act and commodities secured from other sources"; and

(2) by redesignating subsections (f) through (i) as subsections (a) through (d), respectively;

(3) in subsection (b), as redesignated by paragraph (2)—

(A) in the first sentence, by striking "subparagraph (II) of section 205(c)(2)(B)(i) of the Social Security Act (as defined without regard to section 205(c)(2)(B)(ii) of such Act);" and

(B) in the second sentence, by striking "subparagraph (II) (or that portion of clause (III) that relates to no qualifying children)."

(c) EXTENSION OF PROCEDURES APPLICABLE TO REPORTS CONTAINED IN THE TAX RETURN.—Subsection (d) of section 32 is amended by adding at the end the following:

"(1) REFERENCE TO TAX RETURN.—The term 'eligible individual' does not include any individual who has a qualifying child (as defined without regard to this paragraph).

(2) INCREASE IN CREDIT FOR LOWER-INCOME FAMILIES HAVING 2 OR MORE QUALIFYING CHILDREN.—

(A) IN GENERAL.—Subsection (a) of section 32 is amended by striking subsection (a) and inserting the following:

"(1) IN GENERAL.—Subsection (a) of section 32 is amended by adding at the end the following:

"(c) PERCENTAGES.—The credit percentage, the initial phaseout percentage, and the final phaseout percentage shall be determined as follows:

(1) In the case of an eligible individual with:

(i) no qualifying children

(a) the earned income amount

(b) The phaseout amount shall be:

1 qualifying child $6,340 $11,630 $14,850

2 or more qualifying

children $9,910 $16,560 $19,750

(2) In the case of an eligible individual with:

(i) no qualifying children

(a) the earned income amount

(b) The phaseout amount shall be:

1 qualifying child $6,340 $11,630 $14,850

2 or more qualifying

children $9,910 $16,560 $19,750

(3) In the case of an eligible individual with:

(i) 1 qualifying child

(a) the earned income amount

(b) The phaseout amount shall be:

1 qualifying child $6,340 $11,630 $14,850

2 or more qualifying

children $9,910 $16,560 $19,750

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SECTION 312B. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.—

(A) MODIFICATION OF PHASEOUT.—Subpara-

graph (b) of section 32(a)(2) is amended to read as follows:

"(B) the earned income amount, the initial phaseout amount, and the final phaseout amount shall be determined as follows:

(1) In the case of an eligible individual with:

(i) no qualifying children

(a) the earned income amount

(b) The phaseout amount shall be:

1 qualifying child $6,340 $11,630 $14,850

2 or more qualifying

children $9,910 $16,560 $19,750

(2) In the case of an eligible individual with:

(i) no qualifying children

(a) the earned income amount

(b) The phaseout amount shall be:

1 qualifying child $6,340 $11,630 $14,850

2 or more qualifying

children $9,910 $16,560 $19,750

(3) In the case of an eligible individual with:

(i) 1 qualifying child

(a) the earned income amount

(b) The phaseout amount shall be:

1 qualifying child $6,340 $11,630 $14,850

2 or more qualifying

children $9,910 $16,560 $19,750

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SECTION 312C. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.—

(A) IN GENERAL.—Subparagraph (A) of section 32(a)(2) is amended by adding at the end the following:

"(2) The phaseout amount shall be:

1 qualifying child $6,340 $11,630 $14,850

2 or more qualifying

children $9,910 $16,560 $19,750

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SECTION 312D. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.—

(A) IN GENERAL.—Subparagraph (A) of section 32(a)(2) is amended by adding at the end the following:

"(2) The phaseout amount shall be:

1 qualifying child $6,340 $11,630 $14,850

2 or more qualifying

children $9,910 $16,560 $19,750

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SECTION 312E. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.—

(A) IN GENERAL.—Subparagraph (A) of section 32(a)(2) is amended by adding at the end the following:

"(2) The phaseout amount shall be:

1 qualifying child $6,340 $11,630 $14,850

2 or more qualifying

children $9,910 $16,560 $19,750

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.
(3) CONFORMING AMENDMENTS.—
(A) Subsection (j) of section 32 is amended—
(i) by striking “subsection (b)(2)(A)” and inserting “subsection (b)(2)(A) or (D),”
(ii) by striking “1994” and inserting “1996,” and
(iii) by striking “1993” and inserting “1995.”
(B) Subsection (e) of section 32 is amended to read as follows:
“(e) SPECIAL RULES—
“(i) MARRIED INDIVIDUALS.—In the case of an individual who is married (within the meaning of section 7703), this section shall apply only if a joint return is filed for the taxable year.
“(2) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by the death of an individual, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.”
(C) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13204. RULES RELATING TO DENIAL OF EARNED INCOME CREDIT ON BASIS OF DISQUALIFIED INCOME.
(a) DEFINITION OF DISQUALIFIED INCOME.—Paragraph (2) of section 32(c) (defining disqualified income) is amended by striking “and” and at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “and”, after inserting “$500”,
(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13205. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.
(a) IN GENERAL.—Subsections (a)(2), (c)(1)(C), (d), and (1)(2)(B) of section 32, as amended by the preceding sections of this subtitle, are each amended by striking “adjusted gross income” each place it appears and inserting “modified adjusted gross income.”
(b) DEFINED ADJUSTED GROSS INCOME DEFINED.—Section 32(c) (relating to definitions and special rules) is amended by adding at the end of the following new paragraph: “(5) MODIFIED ADJUSTED GROSS INCOME.—
“(A) IN GENERAL.—The term ‘modified adjusted gross income’ means adjusted gross income—
“(i) increased by the sum of the amounts described in subparagraph (B), and
“(ii) determined without regard to—
“(I) the deduction allowed under section 172. 
“(B) NONTAXABLE INCOME TAKEN INTO ACCOUNT.—AMOUNTS DESCRIBED IN THIS SUBPARA-
GRAPH ARE—
“(i) social security benefits (as defined in section 86(d)) received by the taxpayer during the taxable year to the extent not included in gross income.
“(ii) amounts which—
“(I) are received during the taxable year by or on behalf of the surviving spouse of the decedent of the payor spouse (as determined under section 77(c)),
“(II) under the terms of the instrument are fixed or determinable for the continued support of the children of the payor spouse (as determined under section 77(c)), but only to the extent such amounts exceed $600,000,
“(iii) interest receive or accrued during the taxable year which is exempt from tax imposed this chapter and an
“(iv) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.
“(C) CERTAIN AMOUNTS DISREGARDED.—an amount is described in this subparagraph if it is—
“(i) the amount of losses form sales or exchanges of capital assets in excess of gains from such sales or exchanges to the extent such amount does not exceed the amount under section 1221(b)(3),
“(ii) the net loss from the carrying on of trades or businesses, computed separately with respect to—
“(I) businesses or other farming conducted as sole proprietorships,
“(II) trades or businesses (other than farming) conducted as sole proprietorships, and
“(III) other trades or business,"}

Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this was a bad bill when it left the House. It is a bad bill when it comes back from the Senate. Now it will be a bad bill when it goes to the President. He should veto it.

Mr. Speaker, let us be clear. We want to balance the budget in 7 years, but how we do it is immensely important. I believe my Republican friends also believe how we do it is immensely important, otherwise I would make a simple offer. If only achieving the goal was the only thing my Republican colleagues care about, we will do it, and they can vote for our product. I do not think they would accept it.

Mr. Speaker, we will not vote for their product. We need to get through our differences, get a plan that is fair and moves this country forward, and that is our task in the next several weeks.

Mr. Speaker, I urge a “no” vote on this bill today, and then I and many others stand ready to achieve a 7-year balanced budget that is fair to the American people.

Mr. HOBSON. Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. MEEK].

(Mrs. MEEK of Florida asked and was given permission to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, I urge that every Member of this House vote against this resolution.

Mr. Speaker, I am against this bill because it is flat out unfair, especially in the area of health care. The almighty quarter-trillion-dollar bill was spared from the cutting knife, while health care for poor, sick people was cut by $163 billion.

Mr. Speaker, this bill cuts at the expense of poor people who need medical care. It favors rich people and holds the
sorrows promise of hurting 35 million people.
These Medicaid cuts could also force
as many as 172,000 poor veterans to lose
Medicaid coverage by the year 2002.
Combined with the effects of other
cuts, millions could be left without
any health care at all.
Mr. Speaker, where are the savings in
forcing poor people to get their health
care at expensive emergency rooms,
where the bill must be paid by poor
care at expensive emergency rooms,
forcing poor people to get their health
without any health care at all.
We need to contain growth in spending
to about 2.7 percent over each of the
next 7 years to get a balanced budget.
That is not a sacrifice; that is just
good, sound management. If we
manage a 2.7-percent growth, there will
be a savings of $92 billion to people and a better standard of living
because Washington will finally have
gotten their costs under control for the
benefit of all the American people.
Mr. SABO. Mr. Speaker, I yield 1
minute to the distinguished gentle-
woman from Oregon [Ms. FURSE].
Ms. FURSE. Mr. Speaker, my father
always told me, if you see someone who
acts tough but who picks on defenseless
people, that person is a bully. This
budget is a 2.7-percent cut to all the
people and a better standard of living
because Washington will finally have
gotten their costs under control for the
benefit of all the American people.
Mr. SHAYS. Mr. Speaker, this truly
is an historic moment. I just want to
thank my colleagues on this side of the
aisle who have weighed in over the last
9 months to come forward with a truly
revolutionary budget and to thank my
colleagues on this side of the aisle for
their criticism, constructive at times,
and in some cases maybe not. But ultim-
ately what is exciting is that we all
have agreed that we need to balance
our budget over 7 years and so we
have brought forward our budget.
I am looking at the gentleman from
New York [Mr. RANGEL] as someone
who I have tremendous respect for who
has made valid points about concerns
that he has as it relates to his urban
area. I welcome the opportunity for
him to come in with his 7-year budget
and the changes he would make. I bet
ultimately we will find a document
that may even be improved from what
we have here.
Why do I like what we have done? We
have balanced the budget in 7 years.
We have created an environment in
which we can transform this social and
corporate welfare state into an oppor-
tunity society and, in the process, also
saved our trust funds, particularly
Medicare, from bankruptcy.
And I look at the budget, I know
there have been incredible criticisms of
cuts, but spending is not the be all.
I have not heard of comments from the
other side of the aisle where we need to
cut more from. That ultimately will
happen now that we have a 7-year
budget to have a debate about
spending. We are spending the earned
income tax credit. It is going up 28
percent, from $19 billion basically to
$21 billion. We are spending more on
the school lunch program in the next 5
years. We are going to go up from
$3.9 billion to $7.8 billion. We are spending 50
percent more in the student loan program.
It is going to go from $24.4 to $36 bil-
lion, a 50-percent increase in the next 7
years.
In the next 5 years students are going
to increase from $91 billion to $184 billion.
Mr. HOBSON. Mr. Speaker, I yield 3
minutes and 30 seconds to the disting-
ished gentleman from Connecticut
[Mr. SHAYS], a member of the Com-
mittee on the Budget.
Mr. SHAYS. Mr. Speaker, this truly
is an historic moment. I just want to
thank my colleagues on this side of the
aisle who have weighed in over the last
9 months to come forward with a truly
revolutionary budget and to thank my
colleagues on this side of the aisle for
their criticism, constructive at times,
and in some cases maybe not. But ultim-
ately what is exciting is that we all
have agreed that we need to balance
our budget in the next 7 years,
together to balance the budget in 7 years. We will use
conservative scoring, so that we can be
assured that we will reach that objec-
tive, by using the Congressional Budg-
et Office.
Today, we will be voting on one plan
to get there: The Balanced Budget Act
of 1995, which does get us to a balanced
budget by the year 2002. We may have
some differences with the President,
but at this point in time, we are not
sure exactly what they may be. We
need a plan for the President so that
we can compare our differences about
how we achieve a balanced budget.
Mr. Speaker, the other thing that we
need is we need a pledge from all the
candidates for President that they will
work with Congress over the next 7
years to make sure that this becomes a
true promise and a true commitment
that we will actually all be committed
to working toward getting to that bal-
anced budget over the next 7 years.
Mr. Speaker, where are the savings in
what our plan does, we can see that
this really gets to be a discussion not
about cutting spending but actually a
discussion about how much money we
will spend over the next 7 years.
From 1989 to 1995, the last 7 years, we
spend $9.5 trillion in Washington. This
Balanced Budget Act says that over
the next 7 years we will spend $12 Tril-
lion, which is a little bit less than what
some people had hoped we would spend, which is about $13.3 trillion.
Mr. Speaker, in 1995, we spent $1.5 trillion. That is going to grow to $1.8 trillion by the year 2002. We are spend-
ing plenty of money in Washington over
the next 7 years. We are actually
growing Federal spending by about 27
percent over the next 7 years.
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That is a lot of money. There is a lot
of benefits to beefing up the budget. It
is estimated that if we balance the
budget, the American people will real-
ize a 2-percent reduction in interest
rates. That is a significant cost over
Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Waxman].

Mr. WAXMAN asked and was given permission to revise and extend his remarks.

Mr. WAXMAN. Mr. Speaker, with corporate welfare incredibly off the table and with an incomprehensible call for tax cuts in the fact of these huge deficits, the Republicans want to saw away. We will be not be able to adequately fund Medicare and Medicaid, even though health care costs are increasing and our elderly population is growing.

With the return of this conference report to the House, we have another opportunity to do what we should have done in the first place: say no to these devastating cuts in Medicare and Medicaid.

The President has made it clear he will not sign a bill that destroys these programs. Medicaid is not only subject to deep and unsustainable cuts in this budget, but the program itself is repealed. And this cannot happen.

We have kids depending on Medicaid for their health care. That is 1 in 4 in this country. It makes no sense to turn our backs on them.

Millions of seniors and disabled people depend on Medicaid for nursing home care. Millions of middle-class families need to know that this help will be there for their parents. Severely disabled kids and adults have nowhere else to turn, if they cannot depend on Medicaid.

We cannot accept a program that adds millions of America’s kids to the rolls of the uninsured. We cannot undo the program that provides health care coverage for 36 million Americans, including 4 million elderly, 6 million disabled, 18 million children, and 8 million mothers. Now, under the Gingrich and the Republican majority plan, we are no longer concerned with trying to protect health care coverage. Instead, we are taking health care coverage away from millions of Americans.

Under the mantra of States rights, Republicans are shredding the safety net. The Republican bill arbitrarily cuts $160 billion from Medicaid. The Republicans argue this is not a cut, but $160 billion equals almost 2 years of total Federal spending under this program. You cannot tell me that is not a cut, when you reduce the program by 2 years’ worth of Federal expenditures.

Further, the bill abdicates the Federal Government’s total responsibility in Medicaid. It destroys the guarantee of health care for the elderly and for the needy, and it invites abuse by the States. In fact, it takes away all guarantees of coverage under current law. Families could be forced to sell their family home or the family farm to pay for a loved one's nursing home care. Families could face costs of as much as $40,000 a year for nursing home care for their parents. Families caring for seniors with Alzheimer’s or strokes would have no guarantees, nor would the disabled, the children, or the pregnant women. That is cruel, and it is unnecessary.

Mr. HOBBSON. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. Kolbe].

Mr. KOLBE asked and was given permission to revise and extend his remarks.

Mr. KOLBE. Mr. Speaker, we heard a previous speaker on the other side describe this budget as being bullying, heard it described as extreme. I do not know what is extreme about giving the average American family a savings of $2,558, which is what the most conservative projections of economists say that you would get of savings of interest costs on a car loan, savings of interest costs on a car loan, savings of interest on a mortgage loan. I do not know anything that is extreme about giving American families that kind of savings. I do not know anything that is bullying. I think that is helping American families.

Nor do I find anything extreme about a budget that goes from the current amount of $95.5 billion we spent in the last 7 years to $12 billion. That is an increase, given in spending. The difference of course is found in the third column. If we do nothing, if we follow what the President would have us do, it would go up even more. And that is the difference between balancing the budget and saddling American families, saddling children, saddling our next generation with even more debt, borrowing from them today to pay for more debt tomorrow.

A child that is going to pay $179,000 in taxes just to pay the interest on the national debt over the course of his or her lifetime. That is before they pay any of the debt. That is before they get anything from student loans or from health care grants or anything else. That is just to pay the debt, the interest on the national debt.

The President’s spokesman did get it right when he said one thing, he said, this is not about numbers. This is much more than that. This is much more deeper than that. This is about a different vision of where America goes. And I agree. It is a different vision.

We believe it is the vision of America as one where individuals have responsibilities and have opportunities. The vision of the other side seems to be to keep the status quo, keep saddling the American family, keep saddling the next generation with more debt. We cannot go on doing that.

The President said he would veto this, but I hope that this President will change his mind when he looks at this and not veto this legislation.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. Dingell], distinguished ranking member of what used to be the Committee on Energy and Commerce. I do not know what it is called now. The Committee on Commerce.

(Mr. SABO asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I have a vision of America, too, and one which, I think, is far better justified than anything I have heard coming from the other side of the aisle. That is a place where there is compassion, where when people are down, there is a hand out to help, not a handup. That is what is really important.

I rise in strong opposition to this misguided bill. It does more damage to more programs than I can discuss in this time available.

I will talk about Medicaid. Let us recognize the simple truth, this bill destroys the Medicaid Program. That is a program that provides health care coverage for 36 million Americans, including 4 million elderly, 6 million disabled, 18 million children, and 8 million mothers. Now, under the Gingrich and the Republican majority plan, we are no longer concerned with trying to protect health care coverage. Instead, we are taking health care coverage away from millions of Americans.

Last but not least, this program takes away the current law guaranteeing that Medicare premiums of low-income seniors will be paid so they can see a doctor.

The bill walks away from responsible Government to help people in favor of lining the pockets of the wealthiest Americans with tax cuts. This is wrong. I urge my colleagues to reject it.

Mr. HOBBSON. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. Inglis].

Mr. INGLIS of South Carolina. Mr. Speaker, I suppose it is important to exaggerate at times, and as my colleagues know, sometimes in the political process, when we exaggerate for effect, that is, I suppose, the definition of...
demagoguery. I suppose we are all guilty of that at some point or another, but as my colleagues know, the consequences of demagoguery can be different depending on what the issue is.

In the case of our side, maybe we demagogued a little bit on the President's tax increase of 1993, but do my colleagues know what? There were no people who really lost sleep about that; there were no people who went to bed at night wondering whether they were going to make it. But there are people that are losing sleep because of what is being said, particularly at this other lectern, about Medicaid.

There are people likely a lady whose name I would not use who met with me recently at Wade's Restaurant in Spartanburg, SC, who was very worried about Medicare because of some of the things she has heard right here. But when I explained to her what is going to happen in Medicare and the fact that we are going to increase Medicare spending from $4,800 per person to $7,000 per person in the new numbers, she was greatly relieved. In fact, she is now convinced that this will work all right for her after hearing the full presentation.

So I would really urge my colleagues to be very careful in this debate as we talk about the next several weeks about balancing this budget. There are some people that are very scared, and they are scared without reason because we are going to increase Medicare spending; and in fact, in the rest of the budget, what our colleagues see is we are spending more every year over the next 7 years.

So all of those people out there, the scare groups are trying to scare to death, they are having their intended effect, and some people really are scared. But when they hear that we are actually going to increase spending to $12 trillion over the next 7 years rather than watch it gallop off the cliff at $13.3 trillion, saving about $1.3 trillion over the next 7 years, we can actually balance the budget, and when they see those numbers, they go to sleep at night, and they have a good night of rest.

I hope that we will tell them the truth in this Chamber.

Mrs. MEEK of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire.

Mr. PALLONE. Mr. Speaker, this Republican budget bill should be opposed because it repeals Medicaid, the health care program for low-income people, in order to pay for tax breaks for the rich. In effect, this is Robin Hood in reverse, and I cannot believe that our country has come to this. Thirty-six million people will no longer be guaranteed coverage. They will be dependent upon the States which will receive 18 percent less in Federal funds than the Congressional Budget Office estimates is necessary to maintain current coverage.

That means more than 8 million people who would have been covered by Medicaid would likely be without insurance because hard-pressed States would be forced to keep them off the roles. The States do not have the money; where are they going to get it? They are not going to raise taxes, and people will be without health insurance.

The bill, when it came back from conference, also says that States are allowed to spend only 40 cents on a dollar in order to get 60 cents in Federal dollars. So that means that a lot less money could be coming to the States that are contradicted because States would not have to put up their matching funds.

The bill says it is going to provide protections for women and children up to 100 percent of poverty, but allows States to define the benefits package. It also purports to protect the disabled, but allows the States to define who the disabled are and how they will be treated.

What does that mean? A lot of disabled would not be covered; a lot of pregnant women and children would not be covered; and lastly what it does, it also repeals the current law guarantee of payment of Medicare part B premiums on behalf of the elderly.

Mr. Speaker, Congress a couple weeks ago that that guarantee would be there, that low-income seniors would have their Medicare part B premium paid for. There is no such guarantee in this bill. It is up to the States like everything else.

Mr. Speaker, in this continuing resolution that was adopted today for the first time President Clinton got into the continuing resolution that the Budget Act calls for without the President and the Republican leadership, that that principle that President Clinton has so well articulated, provide adequate funding for Medicare. I hope that this bill is defeated and that, when the negotiations start with the President and the Republican leadership, that that principle that President Clinton has so well articulated, provide adequate funding for Medicare, be followed. This bill will not accomplish that goal. Hopefully, once this bill is defeated and the President vetoes it, we will have some negotiations to that effect.

Mr. BASS. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire.

Mr. BASS. Mr. Speaker, I thank the gentleman from Ohio [Mr. Hobson] for yielding this time to me.

Quick item: We heard a previous speaker talk about lack of corporate welfare, attention in our Balanced Budget Act of 1995. I would suggest looking here in the Joint Committee on Taxation report that we have here at least three or four pages of corporate and other reforms. The total comes to approximately $26 billion. In my book that is not small change.

For example, in capital gains we instituted a reduction from the baseline of over $17.1 billion. Under the GOP budget, student lobbies would increase from $24 billion today to $36 billion by the year 2002.

In short, Mr. Speaker, what this Balanced Budget Act calls for is reasonable increases while we protect and preserve the future of this country for our children and our grandchildren. Who could ask for more? Certainly not anybody who was watching this debate today.

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania.

Mr. KLINK. Mr. Speaker, this is a bad bill for a lot of reasons. We have heard our colleagues on the other side talk about what really is a high goal for all of us, and that is balancing the budget so that we do not pass the debt on to the next generation, but that is exactly what this bill will do, and it will do it in our Balanced Budget Act calls for.

If your parents are lucky enough to survive, and they are going to be in a nursing home facility, there is nothing in this bill that ensures that there is an entitlement in the new Medigard program so that they will actually have Medicaid that will be paying for their nursing home care, and so adult children will quite often find themselves paying $35,000 or $40,000 per parent themselves, out of their own pockets, taking away from their own families, taking away from their own savings, taking away from their own ability to buy a home, from their own ability to educate their children. We are really forcing these adult children into poverty because the parents are living longer, and any parent who lives long enough and sees that they are going to become a burden on their children will not want to live, and I say that this really sets the plate for Dr. Kevorkian to have more franchises across this Nation than McDonald's does.

It also will put a tremendous burden on the counties that operate nursing homes. They will either have to throw out these nursing home patients or are the big winners as a result of what we have done over the last few days.

Let us talk for a minute about what the President has agreed to with respect to saving Medicare. Well, indeed in our Balanced Budget Act of 1995 we increase spending in Medicare from $289 billion to $345 billion. The President has said that we must pass tax policies to help working families and to stimulate future economic growth. Well, indeed we do that in our Balanced Budget Act.

For example, in capital gains we allow individuals who make less than status to benefit from $17.1 billion in capital gains preferential treatment. The President is agreed that we must provide adequate funding for education, the environment, agriculture, Medicaid, national defense, and veterans. Well, surely our veterans budget, which goes from, let us see, $36.9 to $41.8 billion is an increase and as compared to the President's veterans budget which constituted a reduction from the baseline of over $17.1 billion. Under the GOP budget, student lobbies would increase from $24 billion today to $36 billion by the year 2002.

In short, Mr. Speaker, what this Balanced Budget Act calls for is reasonable increases while we protect and preserve the future of this country for our children and our grandchildren. Who could ask for more? Certainly not anybody who was watching this debate today.
they are going to have to raise local taxes to make up the difference.

This is a bad bill, and it is a bad direction, and I hope Members will vote no.

Mr. HOBSON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, I am proud to vote yes on this Balanced Budget Act today. This is a good bill. It is good for America, and it is good for the future of this country and for our children's future.

There are four major goals we have set as Republicans for this year, and this bill incorporates these goals, and the goals are:

To balance the budget in 7 years without smoke and mirrors but real numbers; second, save Medicare; third, welfare reform, real reform focusing on families and work; and fourth, tax relief for families and for job creation.

So we have set out our four major goals, and this bill incorporates those goals.

Now the President basically agrees with our goals; at least he has been rambling on saying he does, and, finally, he agreed on a 7-year balanced budget. During the campaign in 1992, he said 5 years, and we have gone to 10 years and 7 and 9. Now we have got the President pinned down to 7 years with real numbers.

Now the President talks like he wants to save Medicare, but we have no specifics. We have a specific plan that I think is a good plan. It increases the spending on Medicare per person each year for 7 years. It is the fastest growing part of the Federal budget. We go from $4,900 per person to $6,700 over with the new scoring to $7,100 per person. Every year there is more money for Medicare recipients. We have a good plan because, basically, it just gives choice.

Now what does the President propose? He has no plan. He has no plan. He tried to socialize medicine in the first 2 years in Congress. The vote rejected that last year. He has no plan to save Medicare, but he says he wants to save it, so at least he agrees with the goal.

The goal we have is welfare reform. We have a specific plan passed by both the Senate and the House. This bill incorporates welfare reform in 1992 and said let us change it as we know it. So he agrees with our goals.

And then tax relief. We want to give tax relief to families. So does the President, and the President is going to support a capital gains tax that stimulates jobs in this country.

So what are we fighting over when the goals are there? It is pure politics by the President and the Senate. The President campaigned on welfare reform in 1992 and now admits it. The President used it, but the previous speaker is talking about Keervian, using that as a comparison, talking about destroying Medicare. The Washington Post was right last week when they said, stop scaring seniors.

The end result is we are going to pass the bill the President is going to sign that is going to be remarkably the name as the plan we are going to vote and approve today. I urge my colleagues to pass this bill today.

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, I am so tempted to take the 1 minute and respond to my colleague and good friend from Florida [Mr. MILLER] about Medicare because there are just flat-out distortions in what he just said, but I think the focus right now is Medicaid, and let us talk about Medicaid for the country and for Florida as well.

Unless there is some part of this bill which I have not seen which figures out how to cure illness and old age, the results of this proposal will be devastating to the country in the whole, but particularly to Florida. Florida will be more adversely affected than any State in the United States. I urge my 15 Republican colleagues in Florida who could make the difference in stopping this bill from becoming law to vote against this proposal. There is an opportunity to make history today, this evening, to urge my colleagues [Mr. MILLER] as well as my other Republican friends from Florida to do that.

Because, if they do not do it, let us just talk a little bit about what will happen. People will still get sick. People will still get pregnant. But what will happen is they will be treated in community hospitals throughout our State at more cost and less service.

I urge the defeat.

Mrs. MEEK. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas asked and was given permission to revise and extend his remarks.

Mr. BRYANT. Mr. Speaker, the entire Western world has found a way to provide health insurance for its entire population, yet in the United States we are doing it for elderly people, people who have retired. Yet today under this reconciliation bill, the Republicans are now beginning to chip away at even that. Not only the Medicare cuts are there, but also Medicaid cuts, which will remove the entitlement that currently acts as a safety net for over 65,000 senior citizens in nursing facilities just in my State of Texas alone, millions more in the United States.

In other words, now there is nothing that requires States to assist impoverished seniors and their families with costly nursing home care in the future. Such care averages about $40,000 per year. The requirement that that be provided is now gone.

There is no way to make these numbers add up. While the population of our State grows over the next 7 years, this bill and its ridiculous formula locks in historical spending patterns that ensure that these costs and their families will be left without medical benefits. The fact of the matter is that a grandmother in New York is going to get twice as much as a grandmother in Texas. This is an outrageous vote "no".

Mrs. MEEK. Mr. Speaker, I yield 4 minutes to the gentleman from St. Petersbur, FL [Mr. GIBBONS], the dean of the Florida delegation.

Mr. GIBBONS asked and was given permission to revise and extend his remarks.

Mr. GIBBONS. Mr. Speaker, we all know this bill is going to be vetoed. It was terrible when it left here, and it is still terrible when it gets back here from the Senate and from conference. This bill savages the most vulnerable people in our society.

Mr. Speaker, let me answer some of the arguments about a balanced budget. Everybody wants to balance the budget. Everybody wants to balance it as quickly as possible, without hurting the economy and without savaging people. The question is, who is going to pay for this? Who is going to bear the burden of this balancing of this budget?

Mr. Speaker, let me say first, we are on the way to a balanced budget. Three years ago the budget deficit was about $300 billion a year, 3 years ago. We just completed the fiscal year, and the budget annual deficit is down to $160 billion. If the economy holds up like it has been going for the last 3 years, we may balance this budget in much less than 7 years, more like 4 or 5 years. That is possible. But it all depends upon the strength of the American economy.

What we want to do here in Congress is not foul up the American economy, to keep it working like it is, and the budget deficit will solve itself.

Second, Mr. Speaker, we have to figure out and present to the President a decent way to balance the budget. Who is going to pay the cost? The Republican proposal, as it is outlined in this legislation, puts the cost on children, on infants, on the working poor, on the sick, and on the elderly. Those are not proper priorities for balancing the budget.

One of the things that vastly complicates this budget balancing is the Republican desire to pay back some of their wealthy political contributors. They give back to them $250 billion, $250 billion that they take away from the sick and the aged and the children.

Let me go over how this $250 billion is distributed. The top 10 percent of American families will get 40 percent of that $250 billion. Let me repeat that. The top 10 percent will get 40 percent of that $250 billion.
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The next wealthiest 20 percent, or wealthiest 20 percent, will get 60 percent of that $250 billion. Those with family incomes of more than $150,000 will get 45 percent of all of this tax cut. The average family income in the United States is about $32,000 per year family. That is the average. Everybody below that, all half of the 55 million families that are below that, have less than $32,000 a year income. But you know how much those 50 percent of the people, the poor, one percent, 1 percent of all these cuts.

That is just not fair, Mr. Speaker. The American public knows it is not fair. That is why the gentleman from Georgia, Mr. Gingrich, and the Republicans are losing out in the polls, because the American public understands the simple facts, that this proposal is not fair.

Mrs. MEEK of Florida. Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from New York [Mr. Rangel].

[Mr. Rangel asked and was given permission to revise and extend his remarks.]

Mr. RANGEL. Mr. Speaker, I rise in support of the rule and the reconciliation bill. I hope that during this Thanksgiving, and God knows we have a lot to be thankful for, that when we say grace, we might think of some of the people that are poor, that are sick, that are disabled, that are aged, and really do not know what the future holds for them...

There are those on the other side that say that we are scaring these people, that they have nothing to worry about, that they are in their mothers' arms with the Republicans' reconciliation bill.

I do not know whether Democrats have the right answer, but when we start talking about the lesser of our brothers and sisters, the blind and the disabled, those who are working hard, trying to keep their pride and their dignity, the rate of growth being reduced, the rate of growth being reduced, and people being denied service, you wonder where is the outrage. How can Republicans come to us and say that they would like to reduce taxes by $250 billion, balance the budget, and nobody is going to get hurt? I was just amazed at how you get this far with that type of arrogance and that type of contempt.

I am pleased today to know that it is not just the liberals screaming that say that this is outrageous, but it is our moral leaders. And God knows how they are registered; I do not. But is it not exciting to see that we now have the National Conference of Catholic Bishops, and I know they do not have a political axe to grind, but they are saying that in this country, this great Republic, that we should have a safety net for our disadvantaged. They are asking that this bill be vetoed because it is unfair to the poor. This did not come from the DCCC.

One might say, "Catholics are not the most popular people that we have in this country," and 10 and behold, we have Christians and Jewish groups calling for a veto. "The very moral fabric of our Nation would be torn," the leader said in his statement. "The Government is renouncing its 60-year-old promise to be protectors of the last resort of the people and of our abused children." It is the Eastern Orthodox denomination, rabbis, ministers, conservative Judaism, the Protestant Council.

I think there is a way out. I think the Republicans really knew that there was a difference in ideology and that they have been getting away with murder, but they signed an agreement, or at least signed off on an agreement with the President. You vowed that you were going to protect these programs. But the great thing about... this agreement is that you show "* * adopt tax policies to help working families, to stimulate the future economic growth.

You also said you were going to protect these programs that made America great, that have given opportunity to those who are wealthy. Now, some of those bombs might come back to haunt them. Now, hopefully, we are going to sit down, we are going to talk about what is the best way to achieve a agreement on the increase of spending over the next 7 years.

I just wanted to relate to some of the concerns about the tax breaks and who they are going to. The net tax decrease in this bill is $226 billion. Just for a minute, compare that to what happened in 1990, when we had an increased tax of $280 billion. Compare that to what happened in 1993, when we had a tax increase spread over 7 years of $350 billion.

If you believe the economists when they say that these kinds of tax increases are a depressant on the economic and job expansion, it is reasonable to give some of those tax breaks back, take away some of those tax increases of 1990 and 1993? I say yes, if we want to increase job opportunity and the standard of living, we have to look at ways that leave some of this hard-earned money in the pockets of the people that earned it.

We have to start looking at the fact that this country, over the last 10 years, has a lower savings rate than any other industrialized country in the world. Guess what? Our savings rate in this country is; about 5 percent. Compare that with South Korea, at 32 percent; compare it with Japan, at 21 percent. We have been paying out, enjoying our benefits now and pay later. That is what we have been doing in this Government. We have kept our word. Our tax plan will help strengthen American families, and it is going to give job creation a boost. Sixty-five percent of the relief goes to people with incomes below $75,000. If you want to go up to $100,000, then 62 percent of these tax cuts go to families that are receiving less than $100,000. It is for middle class families, it is to benefit job creation.

Mr. Speaker, throwing bombs, it is easy to say, "Well, we think you are behind this group," or, "You are disadvantage this group just for tax cuts to the wealthy." Now, if we are going to agree to this, and the Democrats and the President have said, "Yet, we will go with the 7-year balanced budget. We have to start talking turkey over this Thanksgiving period. We are going to have to say, "Here is where I think you should reduce the spending more than you are reducing it today.''

I would say, Mr. Speaker, that it is so good news for the American people that we have agreed to have a 7-year balanced budget. It is what we need to do if we are really concerned about our kids and our grandchildren.

Mr. SABO. Mr. Speaker, I yield myself 30 seconds.

Mr. Rangel, if the gentleman would respond to a quick question, I would ask him, which tax increase of 1993 is real in this bill.

Mr. SMITH of Michigan. Mr. Speaker, will the gentleman yield?

Mr. SABO. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Mr. Speaker, I would tell the gentleman, I do not know the specific tax increase, but I can tell you that we are putting some of this money back in the American people's pockets. It is a $500 tax cut for individuals.

Mr. SABO. The answer is none.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Solomon].

Mr. SMOLON. Mr. Speaker, I could not help but just get up here and say a few words, because I heard the gent- leman from Florida [Mr. Gibbons], my friend, stand up here and talk about giving tax breaks to our rich friends; and I heard the gentleman from New York [Mr. Rangel] stand up here and talk about giving tax breaks to the greedy.

Mr. Speaker, let me say to my colleagues, I have friends in my district...
who live down the street from me. They have been married quite a while now; they have five children. They have a total income of $41,000. He is a postal worker and his wife works parttime—$41,000.

Mr. SABO. Mr. Speaker, there are people on the other side of the aisle, that is rich. I want them to take this $500 tax credit. We are going to put it in their pocket so that they can put it in the bank.

Another couple lives down the street. They are with an income of $47,000. Two of them are working to get that joint income. They are married, and they get penalized for it; while two people living singly together, not married, do not have to pay this kind of a tax.

We are going to take care of that. We are going to do away with that penalty.

Then we have the capital gains tax. I have two people that work for Sears & Roebuck. They have worked there for 38 years, they have saved their money, they have stock options, they have been holding that stock all of these years. They have an income of $49,000 between the two of them. Is that rich? They want to retire next year, sell their $100,000 home. It cost them $8,000, now it's worth $100,000; and they want to cash in their stock and their house to go to Florida and enjoy the sunshine. Are they called rich?

What is this business about a tax cut for the rich? Republican tax proposals are targeted toward working middle American families.

Vote for this bill. It is good for America.

Mr. GIBBONS. Mr. Speaker, if the gentleman would yield, I would say to the gentleman, what he outlined, they do not pay any taxes. They do not pay any taxes.

Under the facts and circumstances that were outlined here by the previous speaker, those people, if they pay any taxes, they are getting the wrong advice. Their home is, under the circumstances that he outlined, completely exempt from taxation.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, this body will now clear reconciliation for the President and he will correctly veto it, and then we will get down to the real negotiations on a balanced budget in 7 years.

Mr. Speaker, if you truly believe that the greatest threat is for us to do nothing, to merely let this Government run on autopilot, because if we do that, a truly tragic result will ensue. I just 17 years from now, every single tax dollar sent to Washington, D.C., will be consumed by just five programs; and four of those programs are vitally important, Social Security, Medicare, Medicaid, and Federal Employee Retirement Benefits. But the fifth program that will consume all of the $2 trillion in new revenue is the interest payment on the national debt.

Mr. Speaker, that is a tragic future awaiting the next generation. We have to relieve that burden of debt that our endless credit card charging has left to our next generation. The only moral course left to us is to make the tough decisions to balance the budget, and that is what the measure before us does.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. DE LA GARZA], the ranking member of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I rise in strong opposition to the conference report on H.R. 2491.

Mr. Speaker, while I support the goal of a balanced budget and voted for the Democratic approach to achieving that budget over 7 years, I must take great exception to this agreement which sacrifices one of our most important national goals—that of preserving the health of our rural economy and the adequacy of our Nation's food production system.

Mr. Speaker, the Gingrich-Army conference agreement eliminates $32 billion of the earned income tax credit. That is one of the most beneficial tax credit for low-income families. The American families, unless this huge Washington spend our tax money, and responsibility back to communities and families, we may be able to make more progress in confronting the challenges that await America in the 21st century.

Mr. Speaker, there is substantial agreement now that the budget must be balanced. The American people want it balanced, and we are working toward that goal. The Gingrich plan before the House today takes the wrong approach where rural America is concerned. Reductions in discretionary spending totals cut deeply into the programs that are vital to rural Americans. We have to continue to marshal our resources in a way that does not endanger the future of our rural economy on which our Nation so heavily depends.

And yet, without the benefit of a single hearing, the Gingrich-Army leadership has imposed an entirely new program that eliminates the Government role in supporting the farmer a fair return. Instead, the Gingrich plan establishes a program of flat payments to farmers: regardless of what they plant; regardless of the level of market prices.

Mr. Speaker, farmers in every region of this country have very grave concerns about the agriculture provisions in this bill. They represent a sudden and dramatic abandonment by the Government of its role in sharing the
Mr. Speaker, I came here in 1965. The first bill I introduced was a balanced budget amendment, so no one can point a finger at me and say I have not tried. I have served with Presidents Johnson, Nixon, Ford, Carter, Clinton, Bush, Reagan, and I respected them always, I respected my colleagues; but when foam comes out of the mouths when they say “tax and spend liberal Demo- crats,” I say they are wrong.

As chairman of the Committee on Agriculture, we cut over $50 billion. My colleagues have to respect that; my colleagues have to admire that. We did. If everybody else had done the same thing, we would have been able—already severely reduced—would be highly inadequate if conditions in the farm economy deteriorated.

The Republican plan has tremendous implications for rural hospitals. Rural residents are chronically underserved. The plan’s cuts in payments to hospitals will threaten the viability of many rural hospitals and clinics. In the days ahead, we must act to protect the ability of rural Americans to improve the availability of health care in their areas.

Mr. Speaker, I strongly oppose H.R. 2491. Make no mistake: my colleagues who vote for it are voting to end farm programs. It’s a bad bill; it is opposed by the American people; and because of that the President will veto it. I am encouraged, however, that the President and the Congress explicitly recognized that we will, in fact, agree on a balanced budget. I am encouraged that we can now sit down in a bipartisan manner and fashion an agriculture policy that will recognize these ba- sics: First, the need to preserve the farm safety net; second, Agriculture has contributed heavily in the past to deficit reduction; third, continuation of investment in rural America is of crucial importance; and fourth, the need to continue to provide the resources necessary to maintain a level playing field with our export competitors.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM], my good friend.
Members on both sides, I believe, will soon end up supporting, and that is the so-called coalition budget.

But I repeat, the balanced budget amendment borrows $41 billion more than the better alternative that we could have voted on today.

Let us talk about agriculture for just a moment. We Democrats learned a lesson 2 years ago, and when we tried to reform our health care system partisanship, in closed meetings, behind closed doors, and excluding the minority, and we were wrong.

Now we have the majority writing farm policy behind closed doors in a partisan manner, excluding the minority. You are wrong today for doing that, to bring a farm bill as part of this reconciliation that destroys the safety net for agriculture, an agriculture community that must compete in an international marketplace, an international marketplace that is not as free as those who have designed this policy, not designed by the Committee on Agriculture. This farm part of this reconciliation bill was not written by the House Committee on Agriculture.

It was written in the Speaker's office and by certain designated hitters who chose, in fact, to put their philosophical beliefs into this reconciliation agricultural portion.

Another reason I oppose this version of the agriculture component is that it does not by any stretch of imagination recognize the needs of rural America, health care, rural housing, water and sewer, conservation needs, research. Research, we are continuing to cut in that area.

There are the things that concern many of us on this side of the aisle, that the agricultural component, the policy, the decisions in which we are going to see whether or not some future speaker can stand in this area right now, as I am standing and talking to you today. And saying are we not blessed to live in a country that has the most abundant food supply, the best quality of food, the safest food supply at the lowest cost of any other country in the world. We do not do that by accident. We do not do that by following blind philosophical beliefs. We do it by following good policy. Oppose this budget. Support one that will have better policy.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. RADANOVICH].

Mr. RADANOVICH. Mr. Speaker, thank God we are all in the same arena finally with the 7-year balanced budget scored by CBO. For the first time we are comparing applies to apples, not apples to oranges. I think that is ter-

ific.

Now that we are doing that, we need to recognize two things. We need to ask these two things: First, should the Fed-

eral Government be doing everything that it is doing right now, and if not, let us figure out how to privatize it. If we should be, let us figure out how to localize it. It can go into the budget, cut what needs to be cut, freeze what needs to be frozen, elimi-

nate what needs to be eliminated, and slow the rate of growth for certain pro-

grams that need a slowed rate of growth.

The reason why I say this is because we have been doing that since January. The result of this is contained in the Balanced Budget Act of 1995. That is why I support it.

Mr. SABO. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], the disting-

guished minority leader.

Mr. GEPHARDT. Ladies and gen-

tleman of the House, let me not today repeat what I said before about this budget. I think everybody knows my criticisms of the budget. Everybody has heard the arguments on the other side, and they have been good on both sides.

I think that yesterday when we reached this agreement, everybody won. Everybody got to put into the res-

olution their beliefs about how this will hopefully come out. It was a com-

promise in the truest sense of the word.

More importantly, yesterday America won and the American people won. Our form of Government is one where people with very different beliefs, from very different backgrounds, from very different parts of the country have to work together to find consensus and compromise. That is hard to do, because all of us hold our beliefs strongly. Both parties have very strong beliefs that they hold dearly.

Mr. KASICH. It was right the other night when he said we are doing now that people sent us here to do. They sent us to fight for them. They sent us to fight for their beliefs, and they sent us to fight for our beliefs.

And kind of the irony of our form of government is that when we finally get down to that grand compromise, what we started to do yesterday and we are going to have to do a lot more of in the next 3 or 4 or 5 weeks, people get out of the way, think we are compromising. People get mad because we are compromising, although it is pre-


liarily.

I can disagree with you vehemently and still respect you and like you as a human being, because I believe all of our motives are good. Our motive is to help the country. Our motive is to make the country better. Our motive is to improve the American society and our people.

Now we ask, as we go through these next 3 or 4 or 5 very difficult weeks, that we continue to respect one an-

other and like one another, and admire one another as Americans and as patri-

ots and as well-meaning human beings, and if we do not agree, so that at least we have the ability to stretch and to move to that compromise which the Ameri-

can people want us so desperately to achieve.

I can do this. We can do it. We are smart enough, we are strong enough, we are good enough to find that compromise. With God's will and help, we will do it.

Mr. HOBSON. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio [Mr. KASICH], our outstanding chairman, a person who has worked so hard to get here and so hard over the weekend.

Mr. KASICH. I appreciate the gen-

tleman yielding me the time.

Mr. Speaker, let me say right off the bat, I am about all I have ever spoken out. I think that deserves an ovation.

I think that we were able to achieve a framework which we thought was important, the 7 years counted by CBO. Within that framework, we were able to list the priorities that we all feel strongly about. Over the next 4 or 5 weeks, we will fight within that frame-

work and I think at the end of the day we will reach agreement.

I do not know how to feel about it today. In some sense maybe we over-

estimate how difficult this will be. I think that the mind is on the right track. What a great speech he just made. He just said we are going to not personal-

ize this stuff and we are going to fight in the great American tradition. At the end of the day, we will reach a deal and we will move the country forward. I think that at the end of the day, we will move the country forward, because when the American people understand we are going to use real numbers, we do not have a goal, we do not have a dream, we have a reality, we are going to lay down the first down payment to-
The gentleman from Minnesota [Mr. Sabo], the leading Democrat on the Committee on the Budget, sat in. Even though we felt strongly, we were actually able to have discussions with the President’s Chief of Staff without anybody you know screaming at each other. It is going to be tough over the next 4 or 5 weeks, but I think we will get the job done.

I hope for everybody, we are going home for Thanksgiving tomorrow, we sit around the table, we say our prayers, and the President for everybody is to have a very happy Thanksgiving.

Mr. Speaker, we are all in a good mood. Let me not say anything that gets us in a bad mood here. I think we will come back after Thanksgiving reinvigorated. We will sit down and we will go through it.

But I think the people should know, and Sam Gejdenson just suggested to me that it was a good point, that we all have strongly held principles.

I really feel on this side of the aisle, I cannot think of a person that holds principles stronger than John Lewis. John Lewis took a beating over principles, and I am proud to serve with him in the House of Representatives.

We will get this done. We will work it out. We will put the country first. We got the framework. Happy Thanksgiving. Let us all come back healthy and happy and ready to go to work.

Mr. Speaker, I strongly support the Balanced Budget Act of 1995, and I fully intend to carry through on the pledge I made to the people of southern Missouri by voting to pass this historic budget. Over the past several decades the national debt swelled to more than $4.5 trillion. This debt will cost taxpayers $234 billion this year and will saddle our children with an even larger burden. Enough is enough. Conservatives have strongly held principles. I cannot think of a person that holds principles stronger than John Lewis. John Lewis took a beating over principles, and I am proud to serve with him in the House of Representatives.

We will get this done. We will work it out. We will put the country first. We got the framework. Happy Thanksgiving. Let us all come back healthy and happy and ready to go to work.

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Mr. Speaker, the stakes in this debate could not be higher. The fiscal future of the United States hinges on the ability of this Congress to make the tough choices required to balance the budget. It’s more than debating trillion dollar figures—it’s about making our economy stronger and providing American families with a better chance to make ends meet. A balanced budget enhances our entire economy with lower interest rates that will empower families and workers with stronger purchasing power. Mortgages, cars, and education become more affordable and the American dream moves closer to reality.

This process has not been an easy one, requiring many tough choices. The result is a balanced budget in 7 years, using real budget numbers—not smoke and mirrors. The Balanced Budget Act limits Government spending increases, provides tax relief for low- and middle-income families, ends welfare as we know it, and preserves and strengthens Medicare and helps small businesses create jobs. Conservatives in Congress and the American people alike have worked to balance the budget, and we want President Clinton to join in this commitment. The obligations we owe to the American people, their children, and our Nation’s future generations, deserve nothing less than decisive action to preserve our future by balancing the budget.

Mr. KOLBE. Mr. Speaker, I rise in strong support of H.R. 2491, the Balanced Budget Act. What we are doing is of enormous significance. We look at all this squabbling and ask: Does this make any difference? This is the ninth shutdown of Government in 12 years, but you probably don’t remember any of them. So why is this different?

Those shutdowns were over how much we were going to grow programs. Democrats in Congress would say increase a program by 10 percent and a Republican President would say, I can only give you 5 percent. So, split the difference at 7½ percent.

This is different. We are not talking about the difference between 5 and 10 percent, but eliminating programs and agencies and reducing Government’s hold on Americans through its grip on their wallet.

This is a revolution that is under way. And revolutions are messy. The Government shut down and impasse on the spending bills are just the tip of the iceberg. But it is an important tip.

The President tried to tell the American people he couldn’t make a stimulus spending bill because it had extra things on it—Medicare premiums for example.

So we sent him a clean continuing resolution last night. Nothing on it. Just one provision that commits the President to negotiating—and even reaching a 7-year balanced budget—just to negotiate. This President has said, as recently as 2 months ago, that he favored a balanced budget in 7 years. During the campaign he said he could balance the budget in 5 years. In fact, he has publicly stated that it could be balanced in 10 years, 9 years, and 8 years.

By saying he would veto the continuing resolution, the President has said he cannot, will not, agree to a balanced budget now, next year, 7 years, 10 years—ever.

This rhetoric has been going on for years. The press reported it again yesterday: The President said, “Yes, I’m for a balanced budget, but we can’t cut Medicare, we can’t savage programs for the poor, we can’t abandon welfare recipients, we can’t change job training programs.” In other words, I’ll talk about a balanced budget, but I just can’t bring myself to doing anything about it.

Well, this morning, we are going to do something. We have on the floor, as I speak, a bill that utterly transforms the way we think about government. This Balanced Budget Act preserves Medicare. In fact under this proposal it’s going up per person from $4,800 to $6,700 in 2002, and 40 percent. It is a lie to say proposals it’s going up per person from $4,800 to $6,700 in 2002, or 40 percent. It is a lie to say Medicare is not going up. Everyone knows that it’s going up.

Mr. CALVERT. Mr. Speaker, I rise in strong support on the conference report on H.R. 2491, Balanced Budget Act of 1995. I wish to take my limited time to speak to the importance of the title V, Energy and Natural Resources Provisions, chapter 4—Federal Oil and Gas Royalties of the Seven Year Balanced Budget Act of 1995.

This chapter is the only legislative initiative that has proven to work with the Arizona Health Care Cost Containment System. It gives States the authority to implement welfare reform; it eliminates all farm subsidies in 7 years; it abolishes the Department and scales back others; and it eliminates more than 100 Federal programs.

Our Balanced Budget Act also gives each family earning less than $110,000 per year a $500 per child tax credit. That’s hardly a tax break for people to break from many, many middle-class Americans.

And let’s look at the benefits of a balanced budget. Interest rates would go down, making it easier for Americans to purchase homes, cars, major appliances, and so on. That would spur economic growth, and our children and grandchildren would no longer be saddled with this enormous deficit.

More than 80 percent of the American people have said they are against a balanced budget, and yet we have delivered one. We have done it for our children because we have borrowed long enough from our children. Now it’s time for the President to stand behind his words with actions and join us—not fight us—in this effort.

I strongly urge my colleagues to support this historic legislation.

Mr. MINGE. Mr. Speaker, I wish to talk about the farm commodity portion of this bill. This body passed the so-called freedom-to-farm bill 1½ months ago. Like most things around here, the title is misleading. It had many shortcomings. My farm friends said it could more aptly be called the Family Failure Act of 1995. However, Chairman ROBERTS at least identified several of the essential points of a good farm program.

Equity among crops is lost. Corn, wheat, cotton, and rice were all treated the same by Chairwoman ROBERTS. In the budget reconciliation bill, cotton and rice have a program that cannot survive if commodity prices are low. Flexibility is compromised. Conservation-minded farmers who wish to reduce erosion and renew the soil by growing hay lose a portion of their options. They are forced to cultivate to qualify for benefits.

The inequities of dairy marketing orders survive. We have a national economy, but not for dairy farmers. Upper Midwest dairy farmers are being discriminated against by byzantine milk marketing orders. These orders should be consolidated or abolished.

This bill’s provisions benefit regional interests, and owners, and industrial-scale farming. It is politics as usual. We had an opportunity to establish a creative farm program; to provide tools that farmers could use to manage risk. This bill blows that opportunity. It should be defeated.

Mr. CALVERT. Mr. Speaker, I rise in strong support on the conference report on H.R. 2491, Balanced Budget Act of 1995. I wish to take my limited time to speak to the importance of the title V, Energy and Natural Resources Provisions, chapter 4—Federal Oil and Gas Royalties of the Seven Year Balanced Budget Act of 1995.

This chapter is the only legislative initiative taken during the last 13 years to cost effectively increase the Nation’s third largest source of revenue—oil and gas royalties. This chapter establishes a comprehensive statutory plan to increase, not decrease, collection of royalty receipts due the United States. In short, it reduces the deficit. Without this chapter as part of the Seven Year Balanced Budget Act of 1995, an ineffective and costly royalty collection system will prevail, perpetuating long delays and uncollected royalties.

To increase royalty collections to reduce the deficit, the chapter:
First, requires the Secretary and delegated States to collect and protect all royalty claims within 6 years. To ensure full and complete collection of all receipts, extension of the 6-year period is permitted and lessees are required to provide records necessary for proper collection.

Second, requires the Secretary to increase the value of disputed claims by deciding appeals within 30 months that will result in additional royalty collections. Today, over $450 million of disputed claims languish in a bureaucratic appeal process and continue to lose value.

Third, allows States which receive one-half of royalties collected to protect their interests by performing royalty collection activities in partnership with the Secretary. This partnership increases receipts to both the U.S. Treasury and the States.

Fourth, requires more aggressive and cost-effective royalty collection by the Secretary and the delegated States which will increase the amount of collections within the 6-year period; and:

- Fifth, increases oil and gas production on Federal lands by creating economic efficiencies to make Federal leases more competitive with private lands.

The Congressional Budget Office has concluded that these changes increase royalty income over 7 years to the U.S. Treasury by $51 million and another $33 million to the States. Additional royalty collections will continue to encourage fiscal year after the 7-year period. Collections will increase in excess of $51 million are likely to occur as the Secretary and States more aggressively collect royalties. Furthermore, net receipts are maximized through increased efficiencies, and production is stimulated under this chapter.

The truth is, the Federal oil and gas royalty chapter makes money, because it makes everybody, lessee and lessor alike, work to collect and pay royalties payments right the first time. And, it empowers the States to do the job leases within their boundaries to ensure that royalty bills are fully paid on time, and for lower collection costs. The Governors of the two States with the most at stake—Wyoming and New Mexico—support this legislation because it will enable them to do their jobs better, fairer, and less expensively and ensures that this significant source of revenue to the U.S. Treasury and Western States will increase.

Some Democrats oppose this chapter because they would rather promote the status quo to allow bureaucrats an indefinite period of time to pursue money due the taxpayers. In spite of the positive CBO score, these same opponents claim royalties will be lost, but in truth, royalty collections will increase. States will have a more direct role, thereby increasing collections to fund schools, highways, and other social programs.

There has been many allegations about chapter four which are false and been used in an attempt to divert attention from the provisions of this chapter which increase royalty collections, reduce emissions, and costly administrative actions and allows States to form a partnership with the Secretary to participate in activities that directly impact the royalties they received from Federal leases. As part of the record, I would like to clarify the intent of various provisions within this chapter. This section in no way affects Indian lands or alters how the Federal Oil and Gas Royalty Management Act of 1982 applies to Indian lands.

The intent of specific section of this chapter includes:

SEC. 5361. DEFINITIONS

Definitions are contained in this section to provide guidance and clarity. Many of the definitions are critical to the underlying concepts. Under the provisions of this chapter, the following definitions apply to Federal leases and Outer Continental Shelf lands, and in no way shall be applied to Indian lands.

The term “obligation” includes all of the duties which arise under a lease issued by the Government. A “lessee” is the person having a contractual relationship with the Federal Government. A “delegated State” defines the terms and conditions of an agreement between the State and the Secretary to promote production and increase royalties received by the State and the U.S. Treasury. A “State concerned” is a State that receives a portion of the Federal royalties for Federal lands lying within the boundaries of the State and shall have a direct role in ensuring the collection of all receipts, extension of the 6-year period. The term “order to pay” has been expressly defined. The committee believes that the information contained in this definition is necessary for the tolling of the 6-year period.

This entire chapter establishes a partnership between the Secretary and the States for the purpose of increasing royalty collections. This section is necessary to expand existing authority for States to perform all or a part of the activities necessary to acquire additional collections to the States and the U.S. Treasury within 6-year period. By expanding the States’ role, States are provided the economic incentive to be more aggressive under the net receipts sharing provision of the Mineral Lands Leasing Act to collect new receipts to the States and U.S. Treasury. States receive 50 percent of all royalties received under Federal onshore oil and gas leases.

States currently may perform certain royalty audit activities if they enter into an agreement with the Secretary. This chapter would allow States to enter into a cooperative agreement with the Secretary to perform legally delegable royalty and lease management activities. If a Federal activity is not deemed to be inherently Federal and can be performed in a manner with the efficient and timely collections of royalty requirements of this section, an interested State may enter into an agreement with the Secretary to perform such activity and funding shall be consistent with current delegation of authority agreements. If an activity is determined to not impact any other delegable activity or provision of this chapter. A State’s compensation to perform delegated activities shall be subject to net receipt sharing, and the State shall receive compensation for State costs allocated to a State’s net receipts during the following fiscal year. As of the date of enactment, existing State delegation agreements to perform audits or inspections, nothing under this chapter shall impair those agreements. All State actions must conform with the provisions of this chapter.

SEC. 5362. SECRETARIAL AND DELEGATED STATES’ ACTIONS AND LIMITATION PERIODS

This section requires collection of royalties and enforcement of royalty claims within 6 years. This 6-year period is the key component of this chapter because it is the driving mechanism to increase revenues to the U.S. Treasury and the States. To determine the amount owing, this section requires companies to provide records during the 6-year period. The Secretary and the delegated States are required to perform cost-effective collections in order to have sufficient resources to increase collections during the 6-year period. The Secretary and the delegated States are required to perform cost-effective collections in order to have sufficient resources to increase collections during the 6-year period. The Secretary and the delegated States are required to determine what Federal accounting and collection activities cannot be performed cost effectively and eliminate redundant auditing efforts.

This section also requires the Secretary to decide and initiate collection of royalties from appealed claims within 2½ years and provides a framework for settlement of litigated cases. As appeals are decided, the determination shall be binding on the State. The requirement is a necessary part of this section’s purpose, which is to ensure collection of all disputed royalty amounts due the United States, thereby increasing revenues to the U.S. Treasury within the 6-year period. It also reduces costs associated with stale and uncollectible claims.

SEC. 5364. ADJUSTMENT AND REFUNDS

In order to ensure that additional royalty collections are collected within the 6-year period, all adjustments to royalty payments are required to be made within 5 years. A key component of this adjustment and refund provisions is that any collections collected within the 6 years is the requirement that interest be calculated and paid at the time of any adjustment.

SEC. 5365. ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES

This section creates an analogous system to the IRS for interest on overpaid and underpaid royalties, thereby encouraging royalties to be paid accurately the month following the month of production. The interest rate for under payments will be short term rate plus three points and for overpayments the interest rate will be the short term rate plus two points, regardless of the amount of the underpayment or overpayment. Increased receipts to the U.S. Treasury and the States are achieved by the establishment of a more efficient and cost-effective accounting system which is necessary so that royalties paid can be verified within the limitation period. This section also imposes a new statutory assessment on lessees who chronically submit erroneous reports, thereby encouraging proper payment and increasing revenues. These are the only type of assessments that can be imposed by the Secretary.

If the Secretary determines that a lessee has paid in excess of 10 percent of its total royalty obligation for all of its leases subject to this act and further determines that such excess payment was made for the sole purpose of receiving interest, the Secretary shall not pay interest on the amounts paid in excess of 10 percent. The committee expects lessees to place excess cash in other interest-bearing accounts rather than with the Minerals Management Service. Preliminary examination by the Secretary that an overpayment was necessary part of this section’s purpose, which is to ensure collection of all disputed royalty amounts due the United States, thereby increasing revenues to the U.S. Treasury within the 6-year period. It also reduces costs associated with stale and uncollectible claims.
Lessees will be allowed to submit an appropriate amount of royalties to avoid underpayment or nonpayment interest charges. When an estimated payment is made, the royalty payment becomes due at the end of the month following the period covered by the estimated payment. The committee does not intend to restrict the period of time covered by an estimate to 30 days.

This section provides that the lessee clarify who is responsible for the payment of royalties and notify the Secretary. The committee intends to eliminate the delay in collection of these royalties because the Secretary will contact only those parties that are liable, or designated to be liable, to remit royalty. The Interior Board of Land Appeals Senate decision demonstrates that the Secretary's current royalty collection practices must be altered to comply with the law. This section does not reduce the Secretary's ability to accept payment from any party or their ability to pursue parties who are secondarily liable.

To ensure proper collections, this provision clarifies which party is primarily liable for the underlying royalty obligation, which is consistent with lease terms. The provision does not alter or restrict a lessee designation of who may report and pay royalties on their behalf.

Security for Payment Marginal Properties.

Regulatory relief and other options to conventional and costly royalty accounting are established for marginal wells to increase royalties and provide the Secretary and States additional resources to aggressively collect royalties from more prolific properties within the 6-year period. This reform for marginal (low production) properties results in additional receipts from oil and gas production that would otherwise be abandoned. This section increases oil and gas production on Federal lands by creating economic efficiencies to make Federal leases more competitive with private leases.

This section requires the Secretary and the State concerned to determine the amount of marginal production from a lease or leases. Marginal wells would be subject to payment or regulatory relief. If a State concerned does not consent, the prepayments or regulatory relief cannot be made.

Mr. Speaker, I urge my colleagues to support the Senate Seven Year Balanced Budget Act of 1995. The Federal oil and gas royalty chapter is sound.

The SPEAKER pro tempore (Mr. Emerson). Pursuant to House Resolution 279, the previous question is ordered. The question is on the motion offered by the gentleman from Ohio [Mr. Hosson].

Pursuant to the provisions of House Resolution 245, the yeas and nays are ordered.

Members will record their votes by electronic device.

Without objection, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the motion to concur in the Senate amendment to House Joint Resolution 122 on which the Chair has postponed further proceedings.

There was no objection. The vote was taken by electronic device, and there were—yeas 235, nays 192, not voting 5, as follows:

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<th>Roll No. 803</th>
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So the motion was agreed to. The result of the vote was announced above recorded. A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that all members may have a 5 legislative days within which to revise and extend their remarks on the motion to concur in the Senate amendment to H.R. 2491.

The SPEAKER pro tempore is there objection to the request of the gentleman from Ohio?

There was no objection.

CONCURRING IN SENATE AMENDMENT TO HOUSE JOINT RESOLUTION 122, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

The SPEAKER pro tempore. The pending business is the question de novo on the motion to concur in the Senate amendment to House Joint Resolution 122. The Clerk read the title of the joint resolution. The SPEAKER pro tempore. The question is on the motion offered by
the gentleman from Louisiana [Mr. CONDETT] to concur in the Senate amendment to House Joint Resolution 122.

The question was taken; and the Speaker, pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a five minute vote.

The vote was taken by electronic device, and there were ayes 421, noes 4, answered "present" 1, not voting 6, as follows:

[Roll No. 821]

AYES—421

...
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all Members be permitted to extend their remarks and to include extraneous material in that section of the Record entitled "Extensions of Remarks."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to make an announcement. The Chair will call special orders without prejudice to possible further housekeeping business.

MOSEL FUNDAMENTALISTS POSE THREAT IN BOSNIA

(Mr. CUMMINGHAM asked and was given permission to address to House for 1 minute and to revise and extend his remarks.)

Mr. CUMMINGHAM. Mr. Speaker, I know the theme today is about the budget, but I've got things a little more pressing, I think. Right now, in Ohio, our national leaders are worrying about a peace process, and this House voted not to allow 25,000 troops to go.

Mr. Speaker, I would ask my colleagues on both sides of the aisle, Republicans and Democrats, if now that the peace can be signed, with the backing of the President, with the backing of the House, with the backing of the Senate and the American people, Republicans and Democrats, can you imagine the peace and the strength that will come out of that with those negotiators knowing that 25,000 troops are not included, but the American people and this body is behind them?

Mr. Speaker, I would like to submit for the Record a statement by Abu Al-Ma'ali. The real threat are the 400,000 Moslem fundamentalists. The Bosnian Moslems are not the fundamentalists. The problem is from Iran, Iraq, Pakistan, and so on.

Mr. Speaker, I submit the following for the Record, showing what the real threat to our troops would be:

Abu Al-Ma'ali stressed that it was inconceivable that the Islamist forces would ever cooperate in a meaningful way with Croat, Serb, or Western forces. We know that we will have a day in which to fight the Jews, and the Almighty will grant us victory, and also we know that the best soldiers will fight the Christians and all of these are promises addressed to the Messenger of Allah. So why do you think that victory would not come to Muslims from Allah. We do not believe in worshiping any one but Allah, we disbelieve in the U.S. and its allies, we disbelieve in transgressors and their religion which they invented and we have relied only on Allah. Abu Al-Ma'ali reaffirms that the Mujahedin "are continuing on our path, until Allah opens the way from us with those unbelievers," so that the Islamist victory could be completed.

It did not take long for Abu Al-Ma'ali to clarify what he meant. On September 27, 1995, the Mujahedeen Brigade issued an Urgent Communiqué called "European Mujahedin Call to Muslims!", which amounts to a call for a worldwide jihad.

"To all of you Muslims of the world we send you our greetings carrying the scents of victory and the joy of Mujahedin so that you share with us the victories of Muslims and their power under the banner of blessed jihad.

"To all of you Muslims of the world we send you our appeal which we have repeated and are still repeating To rise up in support of your brothers, and remove the obstacles [to the rule of Islam] from around you.

"We send you our greetings in this victory despite the plots of the enemies and the unbelievers in an evil attempt to suppress these successes and conquers in order to claim it for themselves.

"These attempts are led by the U.S. and the Crusade West, so be aware of the plots of the enemies of Allah and their hate of Islam and Muslims, and Allah is well aware of what they do."

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. EMERSON). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DOGGETT] is recognized for 5 minutes.

[Mr. DOGGETT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

[Mr. GOSS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

[Mr. WISE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

WHAT THE AGREEMENT TO BALANCE THE BUDGET IN 7 YEARS MEANS FOR AMERICA'S FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. TIAHRT] is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, I want to take a few moments tonight to talk about the significance of what has gone on this past weekend. As many people in the House know, as everyone in the House knows, we have had a partial shutdown of the Government. Last evening there was an agreement reached by the President and leaders in both the Senate and the House and we have been able to restart the Government and postpone any shutdown until December 15.

The agreement on the continuing resolution was that we would, in fact, balance the budget not later than the year 2002, and that we would use the Congressional Budget Office figures. We also went on to list a series of items that are of priority for both sides of the aisle in the House and the Senate, and the President, and we will work toward getting those priorities established through the debate process, some of which I would like to start this evening.

As we all know from November 8, 1994, we have been given marching orders from the American people. Many people ran in their campaigns and wanted to talk about various issues that were important to them. It was picked up by members of the public and those individuals who expounded on those issues, such as a balanced budget, were elected to this Congress.

We have, over the course of the last year, been working toward that balanced budget. But just as a review, what we have been given as marching orders are in the accompanying chart I have, which says, basically, Congress is to balance the budget in 7 years, to save Medicare from bankruptcy, to reform welfare, and to provide tax relief for families and job creation.

As I said, what I believe, Mr. Speaker, are from the American public. Those are the priorities that we are going to work toward over this next month, next 3 weeks, and,
hopewfully, into the next year. And perhaps as we carry out this effort to balance the budget by the year 2002, we are going to achieve these goals on our route to a balanced budget and securing our future.

Mr. Speaker, people have said why should we balance the budget, and we have told people it is important because of our children, and I think that is true. And the reason I do is because our debt is so significant. I brought another chart just to list the amount of the Federal debt.

As of November 8, our Federal debt, this is November 8, 1995, our Federal debt is $4,985,913,011,032.65. Now, that is a tremendous amount of money.

To give people a perspective as to how much money that is, if an individual had gone into business the day Christ rose from the dead, and they lost a million dollars that day, and the following day, and every day of the week, and every week of the month, and almost every month of the year, they would only be one-fifth of the way to losing $4.9 trillion.

Most of us think a million dollars would be a sufficient amount of money to perhaps retire on. To think of losing that amount of money each day for almost 2,000 years and not even getting one-fifth of the way to losing what we have currently as our Federal debt gives us an idea of how much money that is.

For a child born this year, it would amount to about $187,000 in the form of taxes just to pay the interest on this debt, if we are unable to balance in 7 years.

Next year, in fiscal year 1997, the interest on the loan, on this debt, the national debt, the interest will exceed every other expenditure except for Social Security. It will be more than we spend on the Army and the Navy and the Marines and the Air Force and the Department of Defense structure, the intelligence-gathering community. The entire Department of Defense budget will be secondary to the amount we pay on interest on the debt, with Social Security being the only one we expend more on.

With all of that going toward interest, we do nothing to meet the needs of the poor; we do nothing to meet the nutrition programs. We do nothing to provide part B Medicare support. Nothing on Medicaid. Only interest on the debt.

It is a tremendous problem that we must deal with and solve, and we do that by balancing the budget. When we establish priorities toward getting to that balanced budget, we are going to have to deal with a lot of disinformation that is flowing. One, we have heard that we are trying to balance the budget on the backs of the poor, and the enhanced income tax credit has been drastically cut. But, Mr. Speaker, between 1995, this year, this fiscal year, in which we are spending $19.85 billion, by 2002, in the budget that we just passed tonight, we plan on spending $25.4 billion by that year. That is an increase. From 19.85 to 25.4, an increase; and yet we have heard that it is a cut and that we are trying to cut individuals to balance the budget. Mr. Speaker, that budget on in Washington, DC, that is called a cut.

The school lunch programs, we saw last spring, the President go to an elementary school and state that the budget that was before the Congress was not going to take money from these children, that they would be starving.

Well, I have visited some of the elementary schools in Wichita, KS, in my district, the Dodge-Edison School, and there were no reports of children starving at that institution, nor at any school in Kansas or any school across the Nation. In fact, the budget that we passed tonight allows for $6.3 billion to go to school lunches this year. It will grow. It will increase to $7.8 billion by 2002.

Mr. Speaker, I want to close tonight by saying that we must establish priorities, we must balance the budget in 7 years, and I am pleased to be able to work toward that effort.

The SPEAKER pro tempore. Under previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

(Ms. JACKSON-LEE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

IS BOSNIA WORTH DYING FOR?

The SPEAKER pro tempore. Under previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, we theoretically were supposed to adjourn the first session on December 9th. Theoretically, all 13 major appropriation spending bills finished before that in sequence. Everything would have been authorized in the U.S. House. The Money House, the most important among equals around here in the separation of powers between the Supreme Court, the executive branch, the White House, and the Congress.

We are the first among equals. That is the way it was designed by our Framers to the Constitution. Between this House and the Chamber at the north end of the building, the U.S. Senate, we are the ones who control the power of the purse. The right to tax and the right to spend starts here.

The whole authorization, to appropriations to conference with the Senate process, is completely convoluted and all mixed up. Now, we are going out for 74 days, and the talks involving a war criminal from Belgrade at Wright-Patterson Air Force Base are breaking down.

Meanwhile, in Germany the 1st Armored Division over there is being trained to be ready to go in 48 to 72 hours and start sending thousands of men into Bosnia and Herzegovina without the consultation with the United States Senate and the United States House of Representatives and without Clinton having made his case.

Mr. Speaker, here it is in one sentence on the cover of today’s brand new Time magazine. The face of a typical handsome young soldier and it says, “Is Bosnia Worth Dying For?”

I did listen during the brief debate on Friday to read a letter, which I meant to put in the Record and inadvertently forgot, a letter to the editor that I think says it all. It is from the Wall Street Journal of 6 days ago, November 14. It is about somebody who is experienced. Phillip Merrill, a former Assistant Secretary General of NATO, and this article about says it all.

Listen to this, Mr. Speaker: “The Clinton administration is still apparently planning to lose $2,500, now they say 20,000, “American troops into Bosnia with no clear military objective, no definition of victory and no exit strategy,” a huge mistake.

Jumping forward to the middle of the article, which I ask unanimous consent to put into the Record in its totality, listen to this: “This is not to say there is no moral issue in Bosnia.” I also believe there is a moral issue. There is everything the atrocities, the Serb atrocities. “We can best help the Bosnians by making sure their 120,000-man army fight for itself.”

“It’s very doubtful that the Balkans can sustain a multiethnic society of the kind envisioned by Clinton. The U.S. has no strategic stake in this fight and cannot and should not be the military arbiter.”

“Our future policy seems to be,” listen, Mr. Speaker, and any American following this Chamber, about 1,300,000 Americans following this. We seem to be simultaneously threatening Serbs from the air and killing them. We are in hiatus on that. We are going to act as a peacekeepers on the ground; at the same time train the Croatian army, which I just came back from witnessing in August; arm the Bosnian military, which is what the leader in the Senate wants to do, and I do not have much argument with that, we voted overwhelmingly in the House to do that; and at the same time indict Bosnian Serb war criminals and a couple of Croatian war criminals. The Croats have been turned over. The Bosnians, including three senior army officers, have all been promoted and are not being turned over. They are now over 54 or 54 war criminals involved in this; almost all of them Bosnian Serbs. No Moslems have been indicted yet.

Any one of those policies is in itself coherent and defensible. Taken togethery they are incoherent. As flare-ups occur, these inherently conflicting policies will leave us powerless to act effectively.
Look at article 10 and I will put all 10 in the RECORD. Look at my 10th commendation that I have sent to every Member in this House over the last 3 years: Thou shalt not commit U.S. combat forces unless the command is in the hands of United Nations Commanders under a ratified treaty.

Mr. Speaker, listen to the close of Mr. H. 13633, and I will end on one sentence. Mr. Speaker. Should Clinton send American troops into Bosnia without congressional approval, he should be impeached. When the body bags start coming home, it will be a disaster, and that means anybody in this House or Senate that let it happen. I will draw articles of impeachment the minute a man or woman is killed in Bosnia.

Mr. Speaker, I submit the following for this:

1. Thou shall not commit U.S. combat forces unless the situation is vital to U.S. or allied national interests. What is a vital interest are at stake? We already are preventing the spread of conflict with troops elsewhere in the Balkans such as Macedonia.

2. Thou shalt not commit U.S. combat forces unless all other options already have been used or considered. What about lifting the arms embargo? What about the freezing trade sanctions? What about further air strikes? Thou shalt not commit U.S. combat forces unless there is a clear commitment, including allocated resources, to achieving victory.

3. Thou shalt not commit U.S. combat forces unless there are clearly defined political and military objectives. What are the political objectives—protect small “enclaves” in the middle of a civil war? What are the military objectives—seize and hold specific terrain or stand and become a powdering target? Thou shalt not commit U.S. combat forces unless our commitment of these forces is clearly the key to achieving peace, as the law of unintended consequences comes into play.

4. Thou shalt not commit U.S. combat forces unless there are clearly defined political and military objectives. Are 25,000 U.S. troops enough? Are there enough forces allocated?

5. Thou shall not commit U.S. combat forces unless there are clearly defined political and military objectives. Thou shalt not commit U.S. combat forces unless there are clearly defined political and military objectives. Thou shalt not commit U.S. combat forces unless there are clearly defined political and military objectives. Thou shalt not commit U.S. combat forces unless there are clearly defined political and military objectives.

6. Thou shalt not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty. Thou shalt not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty. Thou shalt not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty.

7. Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty. Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty. Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty. Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty.

8. Thou shall not commit U.S. combat forces unless properly equipped, trained and maintained by the Congress.

Why has the President nearly doubled the defense cuts he promised in his campaign and under funded his own “Bottom Up Review” defense plan by as much as $150 billion a year? Should he be impeached for the conspiracy plans to use our military as world policemen in Bosnia, Haiti, and elsewhere?

9. Thou shalt not commit U.S. combat forces unless there is substantial and reliable intelligence information including human intelligence. What reliable human intelligence sources do we have in Bosnia? Will our sources be compromised through intelligence sharing agreements with non-NATO countries such as Russia?

10. Thou shalt not commit U.S. combat forces unless the commander in chief and Congress can explain to the loved ones of any killed or wounded American soldier, sailor, Marine, pilot or aircrewman why their family member or friend was sent in harm’s way. Can we honestly make this case? What do we now tell the families of those killed in Somalia? American lives are at stake!... [From the Wall Street Journal, Nov. 14, 1995]

BOSNIA: WE SHOULDN’T GO

The Clinton administration is still apparently planning to insert 25,000 American troops into Bosnia with no clear military objective, no definition of victory and no exit strategy. That would be a mistake. All the parties have coveted each other’s assets for a thousand years. In the unlikely event that there is a real peace settlement, American troops are not necessary. If there is no agreement for peace, or a deal falter, American soldiers, like their British and French counterparts, will be hostages to ethnic hatreds.

Once U.S. troops are deployed, it will be in the Bosnian interest to keep them there. The Bosnians will find ways to ensure that the Bosnian Serb, Croats and Serbs and Croats are blamed for it. Serbs and Croats will retaliate. Our soldiers will be caught in a deadly and deceptive cross-fire.

To maintain 25,000 Americans under combat conditions would require a rotation of troops in and out of Bosnia. The U.S. Army has only five armored divisions. The planned deployment of an additional division could mean that some 40% of our Army would be committing, going, or on the ground in Bosnia, and some 400,000 people and money that is wildly disproportionate to our strategic interest in the Balkans.

The disastrous result could mean a retreat from Europe—an event which has never been on any issue of debate or contention. On the other hand, the practice of ceding “operational control” of U.S. military forces to non-U.S. commanders remains a highly controversial and troubling policy. While certain U.S. military units have operated under the operational control of other nations, these instances have been rare and usually as part of larger coalition military operations where the U.S. retains overall operational control of the theater of operation. Further, these instances occurred during traditional military operations that allowed a high degree of planning and coordination to minimize the inherent complications resulting from mixed command chains.

By contrast, the concept of ceding operational control of U.S. forces to a United Nations peacekeeping command is a relatively new concept that has yet to be tested and has yielded mixed results. As demonstrated during the UNOSOM II operation in Somalia, peacekeeping operations place a high premium on the ability to rapidly employ effective military force in response to unplanned circumstances. The tactical demands of such
operations tend to stress and exacerbate the limitations of mixed-nationality operations resulting from the usually significant cultural, language, doctrine, and training differences among the participating national contingents. While only U.S. logistics forces were placed under UN operational control during UNOSOM II, the unanimous view of U.S. commanders interviewed by the committee during its review of the Somalia operation was that UN mixed-nationality command chains are inappropriate for demanding UN operations.

Therefore, the committee recommends a provision (sec. 1201) that would regulate the circumstances under which the President could commit U.S. forces under U.N. command or control. The new provision would require that before U.S. forces may be deployed under the command or operational control of the UN, the President must first certify to the Congress that (1) such a command arrangement is necessary to protect U.S. national security interests, (2) the commander of the U.S. force involved will retain the right to report independently to U.S. military authorities and to decline to comply with orders judged to be illegal, militarily imprudent or beyond the mandate of the U.N., (3) the U.S. forces involved will remain under U.S. administrative command, and (4) the U.S. will retain the authority to withdraw the U.S. force involved and take all needed actions necessary to protect this force if it is engaged.

While this provision seeks to ensure that any deployment of U.S. forces under UN command or control is made with a clear and unambiguous understanding of the right of the United States to withdraw those forces at any time and to take any action considered necessary to protect the safety of U.S. and other national contingents deployed in any such given operation.

The provision would further require the President to submit a report along with the aforementioned certification providing: (1) a description of the purpose and intent of the forces that require such a command arrangement, (2) the mission of the U.S. forces involved, (3) the expected size and composition of the U.S. forces, (4) the incremental cost to the U.S. of participation in the operation, (5) the precise command and control relationship between the U.S. forces and the United Nations, (6) the precise command and control relationship between the U.S. forces involved and the U.S. unified commander for the region in which the forces will be operating, (7) the extent to which the U.S. forces involved will be relying on non-U.S. forces for self protection, and (8) the timetable for the complete withdrawal of the U.S. forces involved.

Mr. Speaker consider this Time magazine title “Is Bosnia Worth Dying For?” and these few excerpts from this cover story, of November 25, 1995.

Is the soldier on the cover SP4 Andrew F. Hawley; just another faceless U.S. soldier—No. 1 of 25,000 or 20,000 “American” troops to be sent to Bosnia under “Bill Clinton” foreign policy

He could easily be another Randy Shugart or Gary Gordon, soldiers who gave their lives in Somalia

He could be another “Specialist” Michael New who refuses to serve under U.N. command or U.N. leadership

He could be your husband, or your brother, or your son, going to a place far away to risk his life, not in “peacekeeping” but combat, where we have no vital national security interests, no specific military objectives, and no clear exit strategy.

What are we going to do about it?

The House has passed binding legislation, proposed by Mr. Hefley of Colorado to prevent any funds from being spent on such a troop deployment until authorized by Congress.

Our national Security Committee has also passed binding legislation by myself and on behalf of California that would strictly limit U.N. command of United States troops, which resulted in the death of 19 United States soldiers in Somalia.

But where's the Senate? No binding Bosnia deployment bill. No binding language on U.N. command. We need to get Bosnia under control.

The Senate know that we do not want troops deployed to Bosnia, at least until the President has made his case to Congress, and we certainly do not want our troops under U.N. command at any time.

COALITION BUDGET IS THE PLACE TO BEGIN NEGOTIATING FOR A BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. Roemer], is recognized for 17 minutes.

Mr. Roemer. Mr. Speaker, about 17 minutes ago, Mr. Speaker, we passed through this body a continuing resolution that will fund Government, reopen Government, and fund it until December 15. It was very important to pass this bill because American people, I think, have spoken very, very loudly through the last year and the last several years for Congress to work together; to not engage in gridlock, in posturing and political partisanship and blame games and ultimately deadlock.

For us to pass into a bipartisan way with an overwhelming vote, legislation that not only reopens Government but establishes some parameters for us to move forward and negotiate a balanced budget agreement for the next 7 years; to achieve a balanced budget by the year 2002.

Many of us, Mr. Speaker, worked together over the course of the last few weeks, particularly late last week, to try to forge a consensus, a commonsense middle ground restart to these negotiations that seem to be stalled for a host of reasons.

Mr. Speaker, we are delighted that the parties came to an agreement over this budget in the next 7 years; to achieve a balanced budget by the year 2002. It does it in a fair way with equitable outcomes. It says to the American people we all have to participate in the sacrifice of balancing the budget. But it also says to the political leadership of the people of this nation, we are not going to provide tax cuts, 30 days out from an election, or to the tune of $245 billion, that we must then cut education and farm programs to pay for it. We are going to do this by balancing the budget first and then providing tax cuts later.

I think this is a reasonable, prudent, fair budget agreement. Mr. Speaker, and I would encourage this body to start with the coalition budget, which is a bipartisan budget, to move us forward in the next few weeks toward December 15, to a goal that I think 85 percent of the American people want us to achieve, and that is balancing this budget.

It is going to be a very difficult task. It is going to be a very arduous task, but we continue to have in a bipartisan way for fairness and not devastation of Medicare programs, and for opportunity where we provide for education, for student loans, and in terms of providing a father to our children, by not cutting too deeply into programs so that the farm can be passed on to the next generation of young Americans.

Mr. Speaker, I think that coalition budget achieves that. I think that coalition budget is the place to start, and I think that coalition budget has the best opportunity to bring America together to make sure that we balance this budget in the next 7 years and have fair, equitable outcomes.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. Upton], is recognized for 5 minutes.

[Mr. UPTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]
November 20, 1995

CONGRESSIONAL RECORD—HOUSE

H 13635

AMERICA HAS MUCH TO BE THANKFUL FOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. Fox] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, at Thanksgiving we have much to be thankful for. In looking over the legislation which has been adopted by this House, we only have to look to the line-item veto, which will cut out the pork-barrel legislation that has wasted so much in prior congresses.

We have to look just to the accountability law, sometimes called the Shays Act, which will force Congress to live under the laws that they pass for others. The prohibition of unfunded mandates. No longer will Congress be able to pass laws that, in fact, have local governments and State governments unnecessarily foot the entire bill. Now, if the Federal Government, through the House and the Senate and the President, wish the local governments to do something, the funding will have to follow.

We also passed historic legislation last week with my support, and all the other colleagues in this body. I think it was almost unanimous that we passed the House rule which will ban gifts from lobbyists. There is no way that our constituents feel that we should have gifts from lobbyists and now we have legislation which will prohibit it, and properly.

But I am pleased to see tonight that we have the spirit of bipartisanship and we now have the President and Congress working together to achieve a balanced budget within 7 years. Under that specific language, the President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002, as estimated by the Congressional Budget Office, with the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment.

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It further stipulates that the balanced budget shall be estimated by the Congressional Budget Office figures. I think it is important to note, Mr. Speaker, that by balancing the budget we will help all American families by reducing mortgage costs, reducing car payments, reducing tuition costs, and as well stabilizing health care costs.

It should also be brought out to the attention of my colleagues that the proposed Balanced Budget Act passed by the House for 1995 includes important provisions to 1995 to 2002 in the following ways: The earned income tax credit will go from almost $13.9 billion to $25.4 billion. The School Lunch Program nationally would go up from $6.3 billion to $7.8 billion. Student loans would go up from $24.5 billion to $36.5 billion. Medicaid will go up from $99.2 billion to $127.3 billion. Medicare will increase from $178.1 billion to $289.8 billion, and veterans' benefits will go from $36.9 billion to $41.8 billion.

So it is true. So it is real. So it is not a mirage. This Congress is moving forward in a bipartisan fashion. And in the spirit of Thanksgiving, I know that each of us can do our best to remove the personalities from the fiscal issues and recognize the responsibility of the country by working on policies that Republicans and Democrats can embrace together to bring about the fiscal responsibility to make sure we live within our budgets as families do, as States do, as counties do.

We can work together to make sure that the vital programs of the Federal Government must provide, because State governments and the private sector do not provide the same in a way that removes the waste, fraud, and abuse. If we do that, I know we can achieve the kinds of legislation and the kinds of services the American public wants and deserves.

ON THE BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Kim] is recognized for 5 minutes.

Mr. Kim. Mr. Speaker, I believe today is a truly historic day. For the first time in 30 years, that is right, in 30 years, Congress finally passed a genuine balanced budget plan. For over 30 years, the American people have heard nothing but hot air and hollow promises about the balanced budget.

This is my second term. I remember hearing all the promises to balance the budget at the beginning of the year. And then at the end of the year, there are always some excuse for running a deficit. And the Government was always in the red and they were always blaming someone else, pointing the finger at each other. I know that if I ran my business like this, I would be bankrupt a long time ago, but Government just kept printing more money and more money and adding to our national debt.

This is very dangerous for the future generation, future economic security of our Nation. Why? As a result of all these deficits, we now have a national debt of close to $5 trillion. The interest payment alone on this debt alone is about the same as what we spend on national defense.

Let us take a look at this chart. The blue line is the train of national debt. It looks fine until about 1980, suddenly going up like crazy, totally runaway, totally out of control. This is our national debt climbing up.

One might ask what is wrong with this. When our national debt, never mind the debt itself, but interest payment is almost 20 percent of entire national budget, then we know we are in serious trouble.

If this continues, we will owe so much money to all the foreign countries, we will have nothing left. Somebody has to pay off this debt in the future. You cannot borrow something without paying back.

What we are trying to do under this balanced budget resolution is trying to bring this back, a little bit flatten, and then at the year 2002, at the end of 7th year, flatten. So we spend the exact amount of money than we take in, and we generated an additional $650 billion during this process. Adding this together, we also raise our debt.

This is what they call a mean-spirited cut? I mean, gutting it. Is this cut to you? Still increase more money, spend more money, but simply a slow rate. How we are going to pay off this debt. I do not know. We will worry about that at the end of 7th year.

This is what we are trying to do is let us not accumulate any more debt. We have a serious problem. I do not know. I have friends out there. Recognize the seriousness. That is why I came to Congress, to stop this runaway spending.

I know the choices will be difficult. I know the Big Government liberals would attack me and other Republicans. I know it. But we are willing to take the heat. We have the courage needed to do what is right for the country. Our job is to fix government, not make a career of being in it.

Last November we Republicans asked the American people to put us in charge of Congress and we would deliver a balanced budget. I am proud to report we did just that tonight. We passed a fair, realistic plan that will balance the budget in 7 years.

Some people have said 7 years is too short. We need 10 years. Some people said, how about 7 years too long. We should balance it within 5 years. President Clinton has repeatedly said somewhere between 6 and 9 years. We must do it as quickly as we can and CBO score the 7 years. We can do it without hurting vital programs. We all know that we cannot balance the budget without cutting some programs. However, there is so much waste and fraud going on, wasted duplication, that we can almost balance the budget simply by eliminating waste and fraud.

Can you believe this? Consolidating some overlapping programs and streamlining bureaucracies. We have more than 5,000 programs ongoing right now. Nobody knows what program does what. All these overlapping programs must be consolidated. We can eliminate waste and fraud. We can literally balance the budget. That is what we plan to do. All we are trying to do, folks, are trying to bring the spending rate. By doing it, we can balance the budget.

At this time I would like to thank the American people. I would like to
thank those people in my district. They have been calling me the last few days telling me, hang tough. I am telling you, 85 percent of those people telling me, hang tough, hanging in there. I am glad I did it.

Thank you again, American people. Thank you. God bless you.

VINCE FOSTER INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, over the past couple of years I and some of my colleagues and some staff people have been doing an investigation into the death of Vince Foster who was found at Fort Marcy Park a year ago July. It was in 1993, 2 years ago in July. And over the past couple of years we have researched, we have looked into the Fiske report.

We have gone out to Fort Marcy Park. We have talked to numerous people who were witnesses or not witnesses to his death but were at Fort Marcy Park and we found some startling things. One of things that has really bothered a number of us in the past couple of months is that we found out, when we looked at the report that was filed by the FBI, that there is some severe inconsistencies.

The man who found Vince Foster’s body, and did not pay specific attention to body extremities, including the hand.

When I talked to the confidential witness, he sworn under oath before a court reporter that there was no blood on the side of the man’s face. You might say that might be just a mistake. But the report went on, he further advised that there were traces of blood stains on the shirt to include the upper right shoulder area. Along with traces of what he considered to be vomit or spilled wine, possibly purplish color than what she said. She has been looked at.

Now you would say if that was the only problem with the investigation by the FBI, that they may have just made some mistakes, even though there is some glaring ones here.

In this regard, he advised he could not identify the gentleman. Then we ran into another witness who was out at the park that same day and an hour earlier. That fellow, when he was there, his name was Patrick Knowlton. He said that when he went into the park he saw a car, a brown car with Arkansas plates, and it was a Honda and that it was an older model. Yet in the FBI report they say it is a light blue car with Virginia plates. He said, I never said that. I said it was a dark brown car with Arkansas plates and the Virginia car with the light blue car with Virginia plates and it is light blue.

He also saw some suspicious people in another car who were doing some things there and they may have been involved in the Foster case. And he said, in the report according to the FBI, he could not further identify this particular individual nor his attire and stated that he would be unable to recognize him in the future. He said that is an absolute lie, because I told the FBI agent specifically I not only could identify him, I could draw a picture of the guy because I would never forget his face. Yet the FBI says he could not identify the gentleman.

Then we go back to the confidential witness. There is another part of the report that says, and the possibility does exist that there was a gun in or near his hands that he might have seen. The confidential witness said that is an absolute lie.

Now, another lady drove up near the park and her car broke down, and it was a Mercedes. When she went into the park to try to find help, she sighted two cars and in her report to the FBI she states the cars were of different color than what she said. She has been contacted.

The interesting thing about all of this is the two FBI agents that did the investigation, gentlemen named Larry Knowlton and an agent he did not report that there was blood on the side of his face and on his shirt.

Another part of the report says, he further maintained that when he fixed on the face of the body and did not pay specific attention to body extremities, including the hand. In this regard, he advised he could not remember the exact position of the thumb, stating that while he did not observe the gun, there could have been a gun in his hands.

When this was read to the confidential witness, he went into orbit. He said there is absolutely no question whatsoever that I say the hands clearly, the thumbs were out, the palms were up and there was no gun in the hands. He said, I was right there. I looked right down in his face, no further than 18 inches from the body. So the FBI, according to that.

Now you would say if that was the only problem with the investigation by the FBI, that they may have just made some mistakes, even though there is some glaring ones here.

The interesting thing about all of this is that the FBI agents came in and explain these inequities and inconsistencies, these inconsistencies in this report, because according to the witnesses who found the body, according to the witnesses who were there, according to the witnesses who were there with the body and the people involved, they say these are out and out lies in these reports.

If the FBI lied to Mr. Fiske or if they were asked to lie to Mr. Fiske, that is a breach of faith. It is something that has misled the American people as to whether or not this may have been a suicide someplace else or maybe even a murder. These things need to be brought to the attention of the American people.

We have, I believe, Mr. Starr, the special counsel or prosecutor, who has been looking into this. It has been brought to his attention. I hope he pursues this and finds out why these FBI agents did not write the report the way the people who found the body and the way the people who were at the park saw it. I think he should ask those FBI agents directly, why did you misrepresent these things in this report?

In addition to that, I believe it is incumbent upon the Congress of the United States and our committee to call these FBI agents in and ask them directly face to face why these things are inaccurate.

THE BUDGET

The SPEAKER pro tempore. Under the Speaker’s announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I will not try to use the entire hour this evening. But I did want to get to address the House tonight because I do feel that the two major bills or resolutions that we passed today are rather significant.

First of all, the continuing resolution, which, as I think most of us know, allows the Government to continue to operate, prevents the partial shutdown of the Federal Government, which forced many Federal employees to go home and not provide the services that they normally provide to the public.

Second, I would like to address the budget reconciliation or the budget bill that was passed today in final form before it goes to the President, which obviously seeks to plan or map our budget priorities for the next decade in this Nation.
down. There were Federal employees who were home, I guess, for almost a week. They were not working, but of course going to be paid anyway, and there were many hardships, if you will, for Americans who wanted to sign up for assisted living, for veterans' benefits, those who wanted to join the Army at the recruiting stations; all of these were prevented over the last few days as we argued in the House and in the Senate over our budget priorities.

As a result of the fact that we were able to come to an agreement on that continuing resolution and the fact that the Government is back to work, I do not think it was necessary to close the Government down, and I hope it does not happen again.

Mr. Speaker, I do not really think that tonight is the place to talk about who to blame, but there is no doubt in my mind that the reason for the partial shutdown was because Speaker GINGRICH and the Republican leadership were determined to impose their own ideology about the budget on the Congress, and on the Democrats, and on the President, and this is really an unprecedented situation. In the past, when we had an disagreement, and the budget between Democrats and Republicans or between the President and the Congress, we have not prevented the Government from operating because of our ideological differences.

Essentially, what happened today was that the continuing resolution was adopted with language that said that the Congress will try to achieve, and the President will try to achieve, a balanced budget no later than fiscal year 2002, or 7 years from now, and that the balanced budget must protect future generations for such important priorities as Medicare, Medicaid, education, and the environment, and there are others. Well, if you look at this resolution, basically, that is what we will adopt, or we will try as a goal, to achieve a 7-year balanced budget, and we will try in the context of that 7-year balanced budget to make sure that we do not cut Medicare, that we do not cut Medicaid too much, that we provide adequate funding for the environment and adequate funding for education.

Well, frankly, Mr. Speaker, we knew that this was the reality a few weeks ago. I think much in fact of a balanced budget, and Speaker GINGRICH felt that that budget should be balanced in 7 years. We all were very much in favor of trying to make sure that certain programs were protected, but the President insisted that Medicare, Medicaid, the environment, and, in particular, education programs, in particular, be protected.

So, if we knew that 2 weeks ago or 1 week ago, and if those are still the goals, what is the rush to go and to shut down? Why was it necessary to shut the Government down? It was not, and I hope it does not happen again. I hope that over the next few weeks, as these budget priorities on which there are differences are worked out and nego-
tiated, that we do not find ourselves on December 15 in a situation again where the Speaker and the Republican leadership says, "Look, if you do not join our goals today, we are going to shut down the place again." It is not necessary. We can continue to work while we work out our differences over the budget.

Now, the second thing that happened today is the resolution rec-
onciliation or the Republican leadership bill. It was passed without the support of most of the Democrats. I opposed it. And the reason why the Democrats, or most of the Democrats, opposed it and the reason why President Clinton opposes it is because it essentially provides tax breaks, if you will, tax cuts or tax breaks, primarily for wealthy Americans to the tune of $245 billion, and it takes those tax breaks basically by cutting funds from Medicare and Medicaid as well as education and environmental programs.

So what the Democrats are saying, what President Clinton is saying, what I am saying, is that we have to go back to the wall, that this bill has been passed, the President will veto it; we have to go back and negotiate a balanced budget over the next few weeks that will not cut Medicare and Medi-
care so severely and that will make sure that there is funding for education and also for the environment.

Just to give you an idea of some of the problems with this budget, when I talk about increased tax breaks for wealthy people, at the same time the budget actually provides tax increases for working people and people at a lower income but who continue to work, and just as an example of that, Mr. Speaker, I have a statement, if you will, or a phrase from the Citizens for Tax Justice which did a distributional analysis of the conference or budget agreement, and it shows the following, that the average tax cut for those in the top 1 percent of taxpayers who get a tax cut would be $15,438, but 99.7 percent of all taxpayers in the bottom fifth would have a tax increase or see no change. For those in this group, who have a tax increase, would see their taxes go up by an average of $173 a year.

So here we have it, really for the first time that I can think of in American history, we are passing a budget that is going to give these tax breaks to wealthy Americans but actually increases taxes on working families or lower income families who are still working and paying taxes.

Now you might say to yourself how is it there is a tax increase on lower income people. Well, basically the reason for that is because of the cuts in the earned income tax credit. The earned income tax credit is basically something that was implemented a few years ago in a bipartisan way to try to encourage people to get off welfare and to start working and paying taxes, and so, therefore, people in a lower income bracket who are still working get a tax credit essentially to encourage them to continue working rather than go on the welfare rolls.

Well, in the conference agreement, the changes in the earned income tax credit will basically hurt 4 million childless workers who have incomes less than $9,520. That type of person, the childless worker, if you will, loses up to $300. The cuts in the earned income tax credit affect millions of families with children as well.

For example, it affects families with two or more children who have incomes between $18,000 and $28,000. Some of these families will benefit from the children's tax credit that is in the bill, but not all. Put a different way, those who will get something from the children's credit will have much or all of that benefit taken away by cuts in the earned income tax credit.

Essentially what we are doing here is, while we may be giving some of those low-income people a tax credit because they have children, the tax credit they will lose because of the cuts in the earned income tax credit will more than make up for that so they will be paying more in taxes, and if they do not have children, then they are going to lose even more in the tax credit because they do not have the children's credit to make up for it.

Again, I know it is complicated, and sometimes it is difficult to understand, but the bottom line is that, if you are an individual who is making less than $30,000 a year, you are more likely to get a tax increase under this Republic-

Now I want to walk briefly through about the main concerns that I have with this budget, this Republican budget, in terms of how it affects Medicare. You know, Medicare is one of the programs that are run by the Government which are most deeply impacted by the priorities in the Republican budget. Medicare, for one, is not abolished. It continues to exist. But the nature of the program changes, and essentially senior citizens are asked to pay more to get less in terms of their health care coverage.

Just as an example of that, the part B premium that seniors now pay for their doctors' care—part A Medicare, part A, takes care of the hospital care; Medicare part B takes care of physi-
cians' care—and seniors pay now a pre-
mium per month for Medicare part B. Well, Medicare part B premiums are doubled under this Republican budget proposal. At the same time though that seniors are paying more for their physicians' care under Medicare part B, what is happening is that the amount of money that is available to the Medi-
care Program, particularly for both hospitals, as well as physicians, is sig-
nificantly decreased.
Now what that means is that hospitals will not get the same level of reimbursement rate that they need, or that they get now, or will need in the future in order to make ends meet, and so what we are predicting and what we know is if you talk to the American Hospital Association, for example, is a lot of hospitals will close, or alternatively they will have to cut back on services, and they are essentially squeezed so that they cannot provide the same quality of care.

I know in my own State of New Jersey we have a large number of hospitals that depend on Medicare and Medicaid for a majority of their income. So if that income is significantly cut back, they either close or they will cut back on what they can provide.

The other thing that the budget does with Medicaid in a very sort of sneaky way is that right now, if you are a senior citizen, most senior citizens simply go to a doctor of their choice, and that doctor gets reimbursed by the Federal Government in what we call a fee-for-service system. You get the service, the Government pays the fee. Well, what this Republican budget bill does is it changes the emphasis and basically encourages seniors to enroll in HMO's or managed care programs because over the life of the 7-year budget or over the life of the budget essentially the amount of money that is re-imburseable to individual physicians is opposed to HMO's is skewed towards the reimbursement rate, more money going to HMO's or managed care systems, less money as the years go by going to doctors who stay in the traditional fee-for-service system. So essentially seniors are encouraged, or almost forced, because of their doctors, into HMO's or managed care systems, and a lot of doctors probably would not even take Medicare any more on an individual basis the way we operate now.

So what is going to happen, and I think this is what the intent is, is that this budget will increasingly force more and more seniors into HMO's or managed care where they do not have a choice of doctors.

The effect on the other health care program, Medicaid, which is for low-income people, is just as bad, if not even worse, because essentially Medicaid, which right now is a guaranteed program, if you are below a certain income line, you are eligible for Medicaid, and your health insurance paid for by the Federal Government because you cannot work, or you are a child, pregnant woman, whatever, who is without work, or you are disabled; right now that is guaranteed, that you get Medicaid, you get the health care coverage. But this budget bill abolishes the entitlement status of Medicaid. In other words, about 36 million Americans who are now eligible for Medicaid automatically will lose eligibility, or if you will, and essentially the States are going to use money in block grants to try to continue to run health care programs for low-income people. But what the budget does, and again in a very sneaky way, is it says "OK, now the States are going to get money, and they're going to decide what kinds of Medicaid programs they are going to have for low-income people." But 38 percent less is available in Federal dollars. 18 percent less than what the Balanced Budget Office says is necessary in order to cover the people that would be eligible for the Medicaid Program over the next 7 years.

So what is happening here is again just like the squeeze in Medicare, the squeeze exists in Medicaid. States are told, look, it is up to you to decide now who you want to cover, but you are going to get a lot less money to provide that coverage, and you do not have to cover the people that previously were entitled to Medicaid, and so what are the States going to do? They are going to cut back. A lot of them will decide that certain categories of disabled people are not going to be eligible for Medicaid or thatable will not be eligible for Medicaid, and they do not really have a choice because their only alternative is to raise taxes somehow, and the States obviously are going to be reluctant to do that.

The other aspect of the Medicaid Program that is particularly damaging is with regard to seniors. I mentioned before that under Medicare, the Part B program for Medicare and for seniors use for their doctor bills, the premiums are doubled under this budget bill; but on the Medicaid side, the guarantee for low-income seniors, that guarantee that was paid for by Medicaid is eliminated.

So if you are a senior who can afford to pay for your Medicare coverage, you see your premiums doubled. If you are a senior who right now cannot afford to pay your Medicare Part B premium, so you are covered, and you do not have to pay, you now have no guarantee that the Medicare coverage is going to be paid for.

What is going to happen? A lot of senior citizens will simply not take Medicare part B or physician coverage because they cannot afford to pay for the double premium; or, alternatively, if they are too poor and they have had their Medicare part B paid for by Medicaid, they simply will not have Medicare coverage, and they will not have any doctors to take care of them.

What are we seeing here more and more with regard to the two health care programs is that the budget, this Republican budget, the budget put forward by Speaker GINGRICH, is going to put a lot more Americans, provide that a lot more Americans do not have health insurance at all. They either will not have physician's coverage, or in some cases they will not have hospital coverage, and we are going to see an increase in the number of Americans who have no health insurance.

Right now it is estimated that something like 40 million Americans have no health insurance. Various estimates, responsible estimates, have said that under this proposal, under this budget, we could easily see over the next 7 years as many as 60 millions Americans or more that will have no health insurance coverage.

The other aspect of this bill that is particularly troublesome to me when it comes to Medicaid funding, as well as Medicare funding, relates to how States will finance both programs. In other words, right now is a program where the States have to put up one dollar for every dollar that the Federal Government provides. So when I say that Medicaid is cut by 8 percent over the next 7 years, I am assuming that a State, for example, my home State of New Jersey, would put up $1 for every $1 that comes from the Federal Government.

But when this budget bill went to conference and came back on an agreement between the House and Senate, I believe it is my understanding that even that makes the situation for Medicaid and for States that are making an effort to try to provide coverage even worse, because it says that a State only has to spend 40 cents of a dollar in order to get 60 cents Federal money.

What that means is that instead of putting up $1 and getting $1 in Federal money, the States may decide they will only put up 40 cents and get 60 cents in Federal money, which means that there will be less money available for Medicaid as opposed to the $2 that is available under the current law. So not only will States see a lot less money coming from the Federal Government, but if they decide that they do not want to put up theirs, there may be half as much money available to the Medicaid recipients in that State than is available right now.

The other thing that really upsets me is that so many times on this floor we are told that what we are doing is the Republicans are not saying we want to cut these programs. I believe that will happen, and I think this is what the intent is, is that this budget will increasingly force more and more seniors into HMO's or managed care where they do not have a choice of doctors. Particularly in my home State of New Jersey, I have been troubled by the fact that, unlike previous to today, most of the Republicans decided to support this budget conference when it came back because of changes that were made supposedly for New Jersey that would help with our ability to continue Medicare and Medicaid coverage.

I think we should disagree with what my Republican colleagues or most of my Republican colleagues from New Jersey have been saying in this regard. I think that the bill that has come back to us,
and that we voted on today, did not make any real significant changes in the Medicaid or Medicare Programs that help the State of New Jersey. Particularly with regard to our hospitals and the amount of money they are going to be getting from Medicare, it created problems for the hospitals of certain hospitals, and at the expense of other hospitals.

Ms. JACKSON-LEE. Mr. Chairman, will the gentleman yield?

Mr. PALLONE. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman from New Jersey for yielding to me. I was in my office and listening to his very detailed explanation and very important explanation.

I think it is very crucial on the eve of this Thanksgiving, away from what we experienced this whole last week, and we were together this whole weekend, I recall the gentleman from Texas and debating this issue of adjournment on Saturday, of course a separate issue on the continuing resolution. But we decided together not to leave for our home States, which many of us had obligations, to stay here to demand that this week, this first of all with the question of the Government shutdown. And in the midst of that discussion, of course, and we have heard a lot of people talk about wins and losses, and knowing your commitment to this whole issue, Mr. Chairman, and Medicaid and Medicare.

I have not heard the gentleman say that, but what we did get out of the continuing resolution, which I think is very important for the American public to know, is a listing of priorities that includes Medicare and Medicaid. That is a separate issue.

Because the Democrats stayed in, we were here yesterday, we were here when this Congress reconvened late last night to give us the opportunity to vote on the 1-day CR. And then, of course, today it was voted on. It is giving direction, or that listing of priorities will now give us direction for this budget bill, which of course this budget reconciliation came again to the House floor, and it was not responsive to what you have been highlighting.

If I might just add to what you have said—

Mr. PALLONE. Absolutely.

Ms. JACKSON-LEE. We may not have the collective voices from the hospitals like we would have liked to. I know they were spending time trying to review all of the numbers, they were concerned that they would not speak precipitously. But now they have come and they have spoken. Five thousand hospitals and health systems nationwide have written, and I am not sure whether the Republicans have read this language, but I would just like to share with you, because your hospital, the Texas Hospital Association, and the New York Hospital Association, it simply reads: “The undersigned national, state, and metropolitan organizations representing more than 5,000 hospitals and health systems nationwide, cannot support the conference report on H.R. 2491.” It did not say we want to reconsider the budget reconciliation bill. “Our reason is straightforward as it stands. This legislation, viewed in its entirety, is nowhere or a piece there, “Is not in the best interests of patients, communities, and the men and women who care for them.”

This is from caregivers with no axe to grind, no political or partisan position. In fact, they elaborated this length of time, and apparently, they agree with your interpretation.

In my State in particular, with the Texas Medical Center nearby my district, but the Harris County Hospital District largely in my district, we are finding that on the Medicaid issue we are losing some $5 billion in Medicaid. I think if people understand what that means, if we were to have a recession in Houston we have the Johnson Space Center, and were already on this furlough and large numbers of individuals were furloughed. That is an employment base.

I am very glad to see that we have certainly made some commitments on our side in terms of health care and Medicare and Medicaid. I would say I was going to conclude, but if you would just allow me on one point.

Mr. PALLONE. The gentlewoman had the VA-HUD rule, and interestingly enough, we were prepared to debate that legislation, and it was mysteriously pulled. I would simply say, coming from Texas, I certainly applaud the work that we did in securing the space station. That is indeed important. I would argue vigorously that that creates the work of the 21st century. I was proud to be able to support the funding for that, and not to eliminate or undermine some of the great works of those individuals.

Yet, what we are doing to housing, and then juxtaposing it against the space station, and that effort and science, which that really is not the right scapegoat, it is the $270 billion tax cut, we find in the housing area we are literally gutting an opportunity for what has been the new trend in America, creating affordable housing. My city is just on the precipice of going in and building housing for those who are working who need housing, and here we are, gutting that.

We are gutting historic preservation provisions to protect historic buildings, we are gutting the environment, and interestingly enough, I hope that bill goes back so that we can be fair. We have been fair to those in the science with space station and NASA, and we need to be fair to those who would create the opportunities, young people who will be raised up in these individuals. I hope that we can be the next scientists and engineers.

I think this tells a story of that continuing resolution. I will go back to it, which is establishing priorities. No one wins or loses. It is bringing your experience, bringing my experience of my parents who did not have the same opportunities that I had, bringing them to this House of Representatives, to create the doors of opportunity for those seniors, for those young people, for those working people, for those who are rich, and I hope that someone will listen to what we are saying. We are not against the balanced budget. We have all said it. But
what we have emphasized is the importance of priorities. It appreciate the gentleman yielding to me.

Mr. PALLONE. I appreciate the gentlewoman for speaking up as she did. I think you are absolutely right, that one of the, if not the, major benefit from this continuing resolution was the fact that it establishes the President's and the Democrats' priorities with regard to Medicaid, Medicare, education, and the environment.

What you were saying particularly about Medicaid and Medicare, I wanted to point out, I see that our leadership is here and I want to yield to them, but I would like to point out at some point how this budget conference actually makes the situation even worse with respect to some aspects of Medicaid and Medicare. It was not an improvement. It made it worse for our area hospitals.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE

The SPEAKER pro tempore (Mr. BARR) laid before the House the following resignation as member of the Committee on Science:

WASHINGTON, DC, November 18, 1995.
Hon. Vic Fazio,
Chairman, House Democratic Caucus,
Washington, DC.

DEAR CHAIRMAN FAZIO: I hereby resign my seat on the Committee on Science.

Sincerely,
PETE Geren,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF THE COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as member of the Committee on Small Business:

WASHINGTON, DC, November 20, 1995.
Hon. Vic Fazio,
Chairman, House Democratic Caucus,
Washington, DC.

DEAR CHAIRMAN FAZIO: I hereby resign my position on the House Small Business Committee. This resignation is to take place immediately.

Sincerely,
PATRICK J. KENNEDY,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

Mr. FAZIO of California. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from California.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FAZIO of California. Mr. Speaker, I move to call the roll and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 281
Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

To the Committee on Resources: The following Members: Edward Markey of Massachusetts to rank above Nick J. Rahall of West Virginia and Patrick Kennedy of Rhode Island.

To the Committee on Transportation and Infrastructure: The following Member: Peter Geren of Texas.

Mr. FAZIO of California. Mr. Speaker, I ask unanimous consent that the resolution be amended to put the gentleman from Texas, Mr. PETER Geren, after the gentleman from Tennessee, Mr. TANNER, on the Committee on Transportation and Infrastructure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Without objection, the resolution, as modified, is agreed to.

There was no objection.

A motion to reconsider was laid on the table.
is going to do is force up to 1,000 colleges and universities out of the direct student loan program and cut the number of direct student loans that actually go to students by 1.9 million. So 1.9 million students probably will not have student loans and 1,000 colleges and universities will be cut from the program because of this 10-percent cap.

Some people, though, have said to me, well, so what? We do not have a direct student loan program; we can go back to the guaranteed student loan program that the banks used to operate and still operate under. Why do we need the direct student loan program? I would point out that the direct student loan program, of course, comes directly from the college or university, as opposed to the guaranteed loan program, which is financed; you go to a bank or a loan institution.

Well, there is a key difference, there is a key difference, and this is why so many institutions are complaining about this change and this downgrading of the direct student loan program. One key advantage of direct loans over guaranteed loans is that the direct loans create more flexible repayment terms. Direct lending guarantees students the option of paying their loan back as a percentage of their income. When graduates are starting a family, working in their first job or starting a business, they can choose to make smaller payments. Guaranteed loan holders in the vast majority of cases do not provide this kind of flexibility.

Also, and this is the experience that I can talk to directly because Rutgers University in my district was one of the schools that first started with the direct student loan program and has had tremendous success with it. Students are not being asked to pay a lot of money up front and then getting a job, but we are also in this budget cutting research and development 35 percent. I do not think the corporations will remind me, detailing that they have reduced their research and development departments, they are basically in a profit mode, and that most new research comes out of the partnership between the private and public sector.

For example, in universities like Rutgers University, and here in the State of Texas, 41 schools will now lose the opportunity of the direct student loan program, but in particular, 57,000 students will not have that opportunity.

You have, I think, laid it out for both parents and faculty and administrators, and my husband happens to be an administrator at one of our institutions, the University of Houston in Texas. There is certainly a lot of merit. For example, in universities like Rutgers University, and here in the State of Texas, 41 schools will now lose the opportunity of the direct student loan program, but in particular, 57,000 students will not have that opportunity.

I do not know if any of us can recall conversations, the University of Texas, and the University of Houston has a project. But that is the way we create work for the 21st century.

So I think that we have a budget reconciliation package, we wish we had had it October 1, meeting the deadlines, but now with a new lease on life, new numbers, a continuing resolution that still gives the Government, that clearly sets priorities. New information about what cutting research and development will do for us. I think we can do a better job.

The SPEAKER pro tempore. Without objection, the adoption of House Resolution 281 is vacated, and without objection, the resolution is readopted in the form as requested by the gentleman from Texas [Ms. Jacks on- Lee].

There was no objection.

PERSONAL EXPLANATION

Ms. KENNELLY. Mr. Speaker, I thank the gentleman from New Jersey.
[Mr. PALLONE] and the Congresswoman from Texas [Ms. JACKSON-LEE] for allowing me to take some time this evening for a personal explanation.

Mr. Speaker, on rolcall votes 701 through 713, on Wednesday, October 11, 1995, and on rollcall vote 712, on Wednesday, October 12, 1995, I was unavoidably absent.

On rollcall vote 701, the Scott amendment to H.R. 2405, the Omnibus Civilian Science Authorization Act, I would have voted "yes."

On rollcall vote 702, the Jackson-Lee substitute to the Roemer amendment, I would have voted "yes."

On rollcall vote 703, the Robinson amendment to the Roemer amendment, I would have voted "yes."

On rollcall vote 704, the Roemer amendment, I would have voted "no."

On rollcall vote 705, the Roemer amendment to the Walker amendment, I would have voted "yes."

On rollcall vote 707, the motion to recommit to conference committee H.R. 1976, the 1996 agriculture appropriations, I would have voted "yes."

On rollcall vote 708, adoption of the agriculture appropriations conference report, I would have voted "yes."

On rollcall vote 709, the Lofgren amendment to the science authorization, I would have voted "yes."

On rollcall vote 710, the Kennedy amendment, I would have voted "yes."

On rollcall vote 711, the Brown amendment, I would have voted "yes."

On rollcall vote 712, the Brown substitute, I would have voted "yes."

On rollcall vote 713, final passage of the science authorization, I would have voted "no."

Mr. Speaker, I thank my colleagues for yielding to me.

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I thank the gentleman from New Jersey for bringing these very vital points. It just caused me to think of an array of opportunities that we now have to really look at the budget that now can reflect on some new economic numbers, on the gross domestic product. It can reflect upon where we want to go in the 21st century.

Do we really want to cut research and development? Do we want to eliminate housing for people who are now getting on their feet, first-time owners, single parents with children who are getting to be homeowners? Do we want to tax retirement, for example, I use that just as an example, even though we have brought down the number of Federal employees, that actually has created billions of dollars of new contracts with our world partners, that has created and would create jobs for our young people?

I thank the gentleman for yielding.

Mr. PALLONE. I want to thank the gentlewoman again for emphasizing those priorities that are now in that continuing resolution.

The last one that I wanted to mention, and the one she has already mentioned, is in regard to the environment. Again, the President reiterated that one of the problems that he has with this Republican budget that was adopted today is that it cuts funding or assumes cuts in funding for environmental programs too much.

Perhaps the best example of that, again, is going on, the gentlewoman, was this appropriations bill. We call it the VA, HUD and other independent agencies appropriations bill, which was supposed to come up today but was pulled from the floor, apparently because the Republican leadership does not want it. I want to say thank you for the fact that they do not have the votes because this is a very bad bill, particularly with regard to the Environmental Protection Agency.

What it does with regard to the EPA is essentially decrease EPA funding by about 20 percent. In that funding cut, amongst the money that has been cut, the hardest hit is enforcement, which is cut almost 25 percent.

I have said before and over again on the floor of this House, and will continue to say, what is the point of having good environmental laws if you do not have the money to hire people to go out and enforce those laws? It is like having police officers without any patrons.

"It's OK, you can do whatever you want, because we're not going to come after you, we're not going to indict you or punish you for violating the law." That is essentially what this bill says.

It also makes particularly deep cuts in aid to the States for water pollution control. I find that particularly offensive because my district is largely along the Atlantic Ocean and also along the Raritan Bay and Raritan River, and we have benefited tremendously the last few years from Federal funding for upgrading our sewage treatment plants and for other provisions that make it easier for us to enforce our water quality standards.

As a result, in Jersey and particularly in my district, the ocean water quality has improved, the bay has improved and the river has improved. That has meant a lot to us economically because we depend on tourism for a good part of our income.

Back in the late 1980's when I was first elected to the House of Representatives, we had our beaches closed for most of the summer because of the poor water quality. That has not happened again because the water quality has improved, and largely because of Federal dollars that went back to the States for water pollution control and also because of improvements in enforcement.

The last thing that this appropriation bill does that I want to mention, it does a lot of horrible things to the environment, but another one that is particularly important to my district continues to have the votes. I want to say that it is the Superfund Program. It is a number of years ago now that the Federal Government established a Superfund Program, which is essentially what it is, a Superfund, a large pot of money that is used to clean up the worst hazardous waste sites around the country in all 50 States.

This appropriations bill that gladly was pulled from the floor today, but it makes a 19-percent cut in funding for the Superfund Program. What that essentially means is that the only sites that will be cleaned up are the ones that are already on the Superfund list. In fact, it actually seriously near the EPA cannot add a new hazardous waste site to the national priorities list for clean up unless the State's Governor requests it.

So basically what they are trying to do here, what the Republican leadership is trying to do, either through this appropriation bill or ultimately when they reauthorize the Superfund Program, is to basically say, "This is a closed shop. We're not going to establish any more Superfund sites," in an effort to try and save money.

That is not the way to go about handling a program which has been very important to many States, particularly in my home State of New Jersey, and it is also not a very rational or scientific approach. I proceed to simply say, "Well, if you didn't get on the list now, we're not going to put you on the list anymore because we don't have any more money to pay for cleanup."

Mr. Speaker, I would like to conclude by saying I know that this budget bill passed today. It is a bad bill. The President is going to veto it. As the gentlewoman from Texas said, we hope that in the continuing resolution we establish the priorities, which are to preserve Medicare, to provide adequate funding for Medicaid, to provide enough funding so that we can have a good Student Loan Program and that we can protect the environment.

I am hopeful that after the President vetoes this bill, serious negotiation will take place to emphasize those priorities and not use this budget as a way to simply provide more money for wealthy Americans through tax breaks.

BALANCING THE BUDGET

The SPEAKER pro tempore (Mr. BARR). Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. SCARBOURGH] is recognized for 60 minutes as the designee of the majority leader.

Mr. SCARBOURGH. Mr. Speaker, it is certainly great to be here today talking about what has been going on in this House in a truly historic time. This is the first time in a generation that the executive branch and the legislative branch have come together and decided that we were going to do what Americans have had to do for over 200 years, which is to balance the check book, to only spend as much money as we take in, and to stop stealing from our children and our grandchildren and future generations.
I think a lot of people have heard the numbers before. They have heard that this is a country that is now $5 trillion in debt. We are a Government that spends $4 for every $3 that we take in, we are a Government that continues to steal from our future generations and our children and grandchildren.

I have got a 7-year-old boy and a 4-year-old boy. Right now the debt that they are holding on their head is $20,000. In fact, every man, woman, and child right now is $20,000 in debt if we divide the number of people that are in this country.

If you want to drive it home and figure out how much my 7-year-old boy Joey and my 4-year-old boy Andrew will be owing in taxes over the course of their lifetime if we continue down the same failed path that we continued down when the Democrats were in control for 40 years and if we followed the President’s plan, my children and your children, your grandchildren would owe $187,000 simply in interest on the Federal debt that is in their name. That is money that they would be paying over the course of their lifetime, as their taxes continue to escalate.

We cannot say it enough, that today and this past week and over this past year we have drawn a line in the sand. We have ignored the polls. We have ignored everybody that said, “You can’t do it. You can’t balance the budget.” Washington will not let you, the bureaucrats will not let you, the President will not let you.

In fact, it was 1 year ago that the President, the man who is on the other end of Pennsylvania Avenue and who has been telling the American people for the last 2 weeks that he has always been for a balanced budget, it was that same President who 1 year ago introduced his budget, 1994 style, to the American people.

He introduced that budget that continued to allow deficits to skyrocket continually into the future. Ninety-nine Senators voted on that budget 1 year ago and all 99 Senators voted “no” on the President’s plan. I guess they are pretty smart over there in the other body. They followed the President once. The Democrats followed the President in this Chamber and in the Chamber over there when in 1993 the President introduced his blueprint of what he wanted America to look like.

Do you remember what that blueprint said? It said that President Clinton wanted to raise taxes, he wanted to raise spending, and he wanted to continue to let the deficit soar.

The fact of the matter is his 1993 plan raised taxes more than any other President in the history of this country. He claimed it was the largest deficit reduction plan of all time. The fact of the matter is that if you look at it through the life of it, deficits soared at the end, because he put off all the cuts until the very end.

Now he says, “Well, we’ve brought the deficit down some in the past few years.”

Well, sure, if we wanted to tax Americans and continue to tax Americans and continue to tax Americans and continue to tax Americans, or that Americans now believe we could bring the deficit down, too. Of course we would continue down the same failed path that we have continued down before and would continue to punish people for being productive, would continue to take their savings and drive them away from them, would continue to tax seniors.

This is a thing that has amazed me the most about the debate, that the President and Members from the liberal side could look with a straight face at the American people and say, “We want to protect senior citizens.” Because the fact of the matter is that when they had their budget in 1993, when they had their chance to make a difference, what did they do? They introduced a budget that contained taxes on senior citizens. How much? Well, they made senior citizens pay taxes on 85 percent of their Social Security benefits. But that was not enough. Nosiree, Bob. They decided that if you are a senior or if you actually want to be productive with your life after you start drawing Social Security benefits, well, productivity is something that liberals cannot put up with, so we are going to have to tax you.

They lowered the earnings limit from $34,000 to $11,000, basically told senior citizens if you work, we are going to punish you. So let us fast forward. That is 1993. If they wanted to raise taxes on seniors, I guess that was their business. They paid for it. Not a single Republican in 1993 voted for the largest tax increase in the history of the world, Bill Clinton’s tax increase, and the Democrats’ tax increase, not one Republican voted for it and yet we are being sold that idea it happened last year. The Republicans said, “We’re going to have to pass the largest tax increase in the history of this country.”

Well, obviously Americans were upset. They paid for it in the polls, they paid for it by reneging on his promise to balance the budget in 5 years and in the off-year election, the Republicans and conservatives were swept into power across this country.

How did the President respond?

He was in the denial stage, and he denied that Americans really wanted a balanced budget, that it was not a priority.

He introduced a budget plan that did not balance the budget. Then he moved forward and later on he came in and he said, “Well, maybe we can balance the budget. Maybe we can balance it in 10 years.” In fact, he went up to New Hampshire, which was coincidentally the site of the first primary, and somebody told him that he needed to support a balanced budget. So he said, “I support a balanced budget.”

Then he came back to Washington. His advisers got a hold of him. He said, “No; no; no; maybe I do not support a balanced budget.” Then he went back up to New Hampshire. They said, “Mr. President, do you support a balanced budget?” He said, “Yes, we can balance the budget.” Then he came back down to DC, changed his mind. “No, we can’t.”

Finally he put out a plan that he says will balance the budget in 10 years. Unfortunately, it was about $200 billion short. We run deficits of $200 billion well into the future. The plan did not balance the budget.

House Democrats were enraged, enraged that the President of the United States would actually dare to put forward a plan to balance the budget. The ranking member of appropriations got on the floor, and like many others, was very up upset. What did he say? He said, “We are upset about the fact that..."
Republicans. 

senior citizens from the mean-spirited 

only Bill Clinton could protect and pre-

plan that was radically different from 

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that President Clinton had been sup-

almost identical to the very same plan 

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that reflected our plan to save, protect, 

the year 2002. 

trustees. They said Medicare is going 

Medicare was going bankrupt. The 

President came out him-

self in April of this year saying that 

Medicare. The President came out him-

self out of it again and are now saying, 

“Well, I know we have said that we will 

commit to 7 years, but it is 7, maybe 8 

years.” 

Well, we are sending a message to the 

Democrats, to the President on the 

other side of Pennsylvania Avenue and 
to all Americans, the freshman class of 

the 104th Congress will not com-

promise. We will balance the budget in 

7 years using true figures or we will 

not go along with any plan. It is that 

simple. It is that simple. 

Why do we need to do it? We need to 
do it for three generations. Democratic 
unprecedented economic growth. We 

need to do it to stop driving up the 
deficits, and we need to do it to save, 

protect, and preserve Medicare. 

I have got to tell you I am new to 

Washington. I have never been elected 
to office before this year. I have got to 
tell you one of the most shocking 
things to me has been the demagoguery 

that has flown around on this issue of 

Medicare. The President came out him-

self in April of this year saying that 

Medicare was going bankrupt. The 

trustees reported that. Three members 
of his own Cabinet are on the Medicare 

trustees. They said Medicare is going 

bankrupt. If you do not do something 

about it, you are going to pay because 

the stock market is going to go bankrupt 
in the year 2002. 

Well, we sent a CR to the President 

that reflected our plan to save, protect, 

and preserve Medicare, and the Presi-
dent got on the TV and said he could 

not sign that CR, that he was going to 
veto it and, he was going to send all 

the Federal employees out, that he 
could not have Medicare destroyed like 

this, it was unbelievable, these mean-

spirited Republicans, and the press 
bought into it. And judging by some of 

the polls, a lot of Americans bought 
it into. 

But here is the catch: Our plan was 

almost identical to the very same plan 

that President Clinton had been sup-

porting for 90 days or more; I mean, can you 

believe that; look at the news footage 
of him this past week and last week. 

You would think that this man had a 
plan that was radically different from 
the Republican plan and that the 

Republican plan was mean-spirited and that 

only Bill Clinton could protect 

Medicare and he had to save the 

senior citizens from the mean-spirited 

Republicans.
November 20, 1995

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budget in 7 years using CBO numbers, despite what the administration has been saying today. That is what they are committing to. Is that your understanding?

Mr. GUTKNECHT. If the gentleman will yield, I would like to mention a bit about this, as both being Members of this freshman class, we have been called extremists, heretics, all kinds of names like that. I do think the American people sent a very clear message a year ago. I think they expect us to fulfill this historic responsibility.

As you know, if I could, Mr. Speaker, and the gentleman from Florida [Mr. SCARBOROUGH], I would like to read a letter that the gentleman helped me draft, the gentleman from Florida [Mr. SCARBOROUGH], and signed by virtually every Member of our freshman class, that we sent down to the White House last week. I think it sort of frames the issue from our perspective and how much impact this ultimately had on the President's decision of the week. It is signed to a letter that the American people, and, if you would like an extra copy, they can call my office in Washington, drop me a note in care of the Cannon Office Building, I will send them through in the next few days.

Caucus responsible for the actions of the last several days. Permit us to share our perspective on this important issue.

It is unfortunate that 80,000 non-essential federal employees were furloughed. But we believe very strongly that it would be a tragedy of historic proportions if we were to back down now on our commitment to balance the federal budget in seven years. Twelve months ago, the voters of this nation sent a powerful message that we needed to change the way Washington does business.

They wanted to put the federal government on a diet, and they wanted us to balance their budget.

There is a misgued belief that the current debate surrounding the balanced budget issue is about politics. Balancing the federal budget, Mr. President, is about principle. This is not about the re-election of the freshmen class, it's about preserving the future of our country. In fact, we believe it goes deeper than that. What is at stake here is preserving the concept of self-government. If we cannot balance our budget when we are the sole surviving super-power, when we are at peace in the world, when we are growing the economy with low unemployment, then when will we?

We want to resolve this. The American people want us to work together. We have been given a historic opportunity. Our children would not hold us harmless if we squandered it. This is a moment of truth. This is when 'We The People' show whether we have the moral courage and character to do what we all know is right. The gentleman from Florida [Mr. SCARBOROUGH] said it. Most of us thought we ought to balance the budget. We believed it could be done if we were willing to make some really tough choices. In fact, some might argue that our budget we are proposing today is actually too generous.

But I would also like to read this, because the truth is that there has been some distortion already today, and, in fact, it started as early as last night, and I was somewhat disappointed in the news conferences at some of the comments made by Mr. Panetta and the President and others about what they duly agreed to. At some point the American people, and, if you would like an extra copy, can call my office in Washington, drop me a note in care of the Cannon Office Building, I will send them through in the next few days.

I think that is what is frustrating to members of the public.

I think the interesting point, there is a story told about Yogi Berra. He has become one of my favorite philosophers. One night Yogi went out by himself to have pizza. He ordered a small pizza. The waitress said, "Do you want that cut into 8 slices or 6?" Yogi said, "Well, I'm not that hungry tonight; just cut it in 6. I do not think I can eat 8 pieces."

That is sort of what the argument is we have been having about the budget lately, because we have not agreed to how big the pizza is going to be. Now we can have the debate, about how much it is going to the environment, how much is going to national defense, how much is going to transportation, how much will we spend on welfare, how much we will spend on Medicaid and other entitlements. At least we finally have agreed on the size of the pizza. How many slices and exactly the way it is sliced, I guess, is not as important to us as it is in fact we have agreed. We have agreed on a balanced budget, whether it is a Republican balanced budget or a Democratic balanced budget, whether it was a coalition balanced budget plan the conservative Democrats put together. They voted against every budget.

Second, and this is even more important, it is now incumbent upon the President and this administration to come forward with a budget plan that they like. Now, they spent the last 6 or 8 weeks telling everybody about the things in our plan they do not like. That is fair enough. That is part of the process. But now, with America that we signed last year. The agreement that was reached last November in a contract with America, people, and we take it very seriously, and we hope the White House will take it very seriously.

But now it is their responsibility to put their plan on the table. I think we in the Congress and the American people put every right and every fact and should demand that they put a plan on the table.

Mr. SCARBOROUGH. If the gentleman will yield for 1 minute, I think this is an important and important distinction. I have heard many say the Democrats do not have the responsibility. The Republicans were elected, they are in charge of the House. The Democrats do not have responsibility to put a plan on the table to save Medicare, which they have not done in the House, or to put forward a budget plan that balances the budget, which the majority of the Members have not done.

But it is important to remember that in 1993, when the Republican Party was in its 39th year in the wilderness, that the gentleman from Ohio, JOHN KASICH who has forever changed Washington, DC, through his leadership on the Committee on the Budget, putting together the first balanced budget plan in this generation, JOHN KASICH came up with a plan. He had a plan, and the Republicans all supported that plan.

That is extremely important. This year the Democratic leadership has failed to put forward a plan. All they are doing is complaining, saying what we are doing wrong. But if you look at the minority leader and the whip and everybody in the minority, they voted against every single balanced budget plan. I have to tell you, they have had about six chances this year to vote for a balanced budget.

They voted against a balanced budget, whether it is a Republican balanced budget, whether it is a Democratic balanced budget, whether it is a coalition balanced budget plan the conservative Democrats put together. They voted against every budget.
Democrats, 39 percent. They said, Republicans, 47 percent; that will do that. Every-1day said it so clearly, I think, on the

I have to congratulate Chairman An-1day and said our plan is not perfect. I

Mr. SCARBOROUGH. He did not vote for1anybody else can say about their plan,1because they do not have a plan, but at least we have a plan, and it will work1according to CBO scoring.

CBO, as the gentleman says, has been1the most conservative over the years. Frankly, I think perhaps too conserva-1tive, but I would rather err on the side of conservative when you are talking about balancing the budget and trying to save the future generations of Americans from a debt which is actually going to come crashing down around them.

The gentleman talked earlier about1polls. Sometimes we here in Washing-1ton get too much influenced by polls. The gentleman talked about one of my favorite newspapers, the Washington Post, and said they were going to publish a Republican propaganda organ. Many times in fact so many of those on this side of the aisle take what they say with a grain of salt.

I would like to remind you of a poll1done a couple of weeks ago by the Washington Post. Here is what they asked. It was October 30, 1995; that was a little over 2 weeks ago. They asked, “Who do you trust to do a better job with the main problems facing this Na-1tion over the next few years?” And they had Republicans, 47 percent; Democrats, 39 percent.

Now, when we took over this House,1if I remember correctly, on that same
test ballot question the day before the election, the score was Republicans, 44; Democrats, 41. We only had a 3 percent advantage a year ago, and we picked up 73 seats.

Even more telling, it seems to me,1they did not do a somewhat differ-1ent question, but along the same lines; they asked, “Which party better re-1presents your views on national is-1sues?” And this is according to the1Washington Post poll taken about 2½1weeks ago. Republicans, 55 percent; Demo-1crats, 39 percent.

I do not know how your phone mes-1sages were over the last week during1the furlough of Federal employees, but mine were overwhelming. One day we received something like 270 calls say-1ing hang in there, continue back up, do not blink. We had 27 calls which said save in to the President. I think that is1pretty reflective of where the American1people were, and I think the American people were well served by the1partial government shutdown, I think.1Mr. KASICH and our Speaker and other leaders did not blink.

As a result, we are going to have a1balanced budget agreement. We now1have a contract with this President,1and contract with the American peo-1ple, that we are going to do what we said we are going to do. We are actu-1ally going to balance this budget.

Mr. SCARBOROUGH. I appreciate that. I have got to tell the gentleman1something. One of the reasons I believe1why twice as many people are now say-1ing the Republican Party reflects their1views more than the Democratic Party is because the Democratic leadership, at least in this House, has had a total void. They have not told us what they believe in.

Mr. GUTKNECHT. If the gentleman1will yield on that point, this is a criti-1cal point. They did offer a Medicare al-1ternative. I think it only got about 1001voters. Even their leader, Mr. GEP-1HARDT, voted for their plan. On their1alternate budget, not even their leader, Mr. GEPHARDT, voted for their plan.

Mr. SCARBOROUGH. He did not vote1for either plan. I do not believe the1whip from Michigan voted for the plan. Yet they will stand there self-right-1eously and say they support the bal-1anced budget and want to save Medi-1care. Yet they voted against every plan1that will do that.

Let me show you this chart, because this is an important chart. It shows that so many Americans have not real-1ized because of what the President has1been saying for the past few weeks. The1Washington Post, and again I am quoting from them, this is not a Re-1publican this is what the Post says, it says:

The Democrats and the President have shamelessly demagogued the Medicare issue despite the fact that our plans are so similar. This is the Medicare part B pre-1miums over the next 7 years, and as we can see, as you go out 7 years to the year 2002, the Republican and the Demo-1crat premium are the same. Look at

this. You have got $83 and $87. There is only a $4 difference. That is why the Washington Post said that the Presi-1dent shamelessly demagogued the Medicare issue.

But it is not just Medicare that they are trying to scare Americans on. In1my district, we have about as many veterans as any other district in the country. Our area has a long, proud military history, with a lot of veter-1ans. Let me tell you, they are so im-1portant to this country.

But let me tell you, Mr. Speaker, Secretary Brown has actually started sending out1political messages on the pay stubs, saying that the Republican plan for fu-1ture veterans benefits was going to savage VA benefits and that it was more mean-spirited than the Presi-1dent’s plan.

The fact of the matter is, when he came to Capitol Hill under sworn testi-1mony, he had radically different testi-1mony.

This is what he was asked. This is1Secretary Brown from the Department of Veterans Affairs. When asked about1Mr. SIMPSON’s assertion that veterans would suffer more under the Clinton administration’s proposed budget than under the congressional plans, Mr. Brown said, “He’s absolutely right.” That is November 8, 1995.

Now, let me tell you, I understand in1the Department of HHS and in other areas, I understand that sometimes we do have to have a contract with the American people. At least we have a plan, and it will work according to CBO scoring.

But let me tell you, I do not think they have a contract with the American people. I think they have a contract with this President, at least in this House, has had a total void. They have not told us what they believe in.

Mr. GUTKNECHT. If the gentleman1will yield. We have not heard from1Secretary Brown since this hearing. I find it1hard to believe that Secretary Brown1will cave in to the President. I think that is1more mean-spirited than the Presi-1dent’s plan.

Introduce your balanced budget plan,1Mr. SCARBOROUGH. We have been hearing from our negotiators, because J OHN KASICH came to Capitol Hill under sworn testi-1mony. Our optimistic, I think, on that point.

But let me tell you, I think that is1more mean-spirited than the Presi-1dent’s plan. Introduce your balanced budget plan, Mr. SCARBOROUGH. We have been hearing from our negotiators, because J OHN KASICH came to Capitol Hill under sworn testi-1mony. Our optimistic, I think, on that point.
Mr. GUTKNECHT. Well, Mr. Speaker, we're talking about balancing the budget, and I think sometimes we have been characterized in the national media as mean spirited and that we are budget cuts for the rich. I tell the gentleman, and I do not know if I should share this story. Obviously, I will not use his name, but I had a gentleman talk to me the other day, and by all accounts he is rich. He told me last year, as we debated the budget, he learned about the same amount next year. So he went to his accountant and had the blueprint of the Republican tax plan and he had his accountant go through his taxes and asked him how much of a tax cut would he get next year? Does the gentleman know what the answer was? Zero. Zip. Nada. Nothing.

He will get no tax cut. His kids are grown. He has no capital gains. This is all dividend income and other income that he has, so he gets no tax cut. So this idea that all rich people will get huge tax cuts is just bogus. Most of the tax benefit will go to those families earning less than $75,000 a year. And the dilemma and the challenge to all the colleagues here in Congress know that to be a fact and yet they will not acknowledge it.

I yield back and perhaps we can pursue a conclusion after we yield to the gentleman from Rhode Island.

Mr. SCARBOROUGH. I appreciate that. We certainly will, and it is my honor to yield to the gentleman from Rhode Island, who also has a seat with me on the Committee on National Security, and we can work together as a body, Republicans and Democrats alike. He is going to be speaking on something different from what we have been talking about, but something very important and timely today.

I yield to the gentleman from Rhode Island.

RESOLUTION CONDEMNING ATROCITIES COMMITTED IN FORMER YUGOSLAVIA

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank my colleague, Congressman SCARBOROUGH from Florida, for yielding me this time.

Fifty years ago today the Nuremberg trials began. On November 20, 1945, the leaders of Nazi Germany were placed on trial for committing crimes against humanity. The horror of the Holocaust was exposed and the world hoped that it would never ever see such systematic evil perpetrated again.

No one can begin to even compare any evil to that kind of systematic evil perpetrated during the Holocaust, but evil is evil. Tragically, history has proven this optimism wrong. As we all know, the Balkans have been the site of the most recent war crimes in Europe since the end of World War II. As Nuremberg proved, there can be no place for those who commit or order or condone such acts. There can be no tolerance for those who offer refuge for those responsible for such acts.

Recognizing the danger of silence in the face of such tragedy, the United Nations established an international criminal tribunal for the former Yugoslavia. Today I am introducing a resolution condemning the atrocities committed in the former Yugoslavia and expressing the support of this Congress for this war crimes tribunal. The resolution affirms the following principles:

First, those indicated by the tribunal cannot occupy any position of authority in any government or any entity in the republics of the former Yugoslavia;

Second, that the United States should insist upon the full cooperation of the republics of the former Yugoslavia in bringing those who have been indicted by this war crimes tribunal to justice;

Third, future support for the reintegration of the republics of the former Yugoslavia into the international community should be dependent on their full cooperation and support for this international war crimes tribunal;

Fourth, investigators for their tribunal should be given full access to all the sites, to all the witnesses, and to all the evidence of alleged and suspected war crimes; and

Fifth, the United States should oppose amnesty for any indicated war criminals.

On this, the anniversary, the world hopes for peace in the Balkans, but it is the responsibility of the Congress to say unequivocally that there will be no peace without justice. This century has been marked by many tragedies. If the next century is to be free of such horrors, the responsibility falls on us to lay the foundation today. We cannot erase what has happened, but we can and we must do all that we can to prevent such a recurrence from ever occurring again.

I hope that my colleagues will join me in cosponsoring this resolution, and I thank, once again, my colleague from the State of Florida, Joe SCARBOROUGH, for following me this morning.

Mr. SCARBOROUGH. I thank the gentleman from Rhode Island, and I also thank him for his leadership on the National Security Committee, and certainly I have been with him when he has asked some very tough questions to our policy leaders and questioned those who would simply say that we would put Americans in harm's way simply to protect our standing in NATO.

I think we have to have a more hardened approach than simply worry about how we are going to look at NATO, and have to ask what America's role is and what America's vital interest is in that conflict.

Certainly there have been horrors. I saw a picture of a 7-year-old who was blown off his bike by a Serbian mortar shell, and the ABC cameras followed him and he was crying to his parents, "Dad, don't cut off my leg; please don't cut off my leg." And the news reporter said they did not cut off his leg. But, unfortunately, the young boy died a few hours later.

The horrors are absolutely indefensible, and I would gladly sign on to your resolution, and I thank you for bringing that up. Congress has made some controversial decisions on the Bosnian conflict over the past week or two, but that is certainly something I would have all Republicans and Democrats alike could come together.

I yield back to the gentleman from Minnesota.

Mr. GUTKNECHT. Well, Mr. Speaker, we're talking about balancing the budget, and I think sometimes we have been characterized in the national media as mean spirited and that we are draconian and that this is simply an accounting exercise. But I think sometimes we need to step back and understand that there are going to be enormous benefits to the average American family if we are able to finally, at last, balance the Federal books.
A study was done by DRI McGraw Hill that essentially says that if, and this is pursuant to what Alan Greenspan had said, that if we actually could balance the Federal budget for the first time in over 30 years, it was his opinion that real growth would be by at least 2 percent and that economic growth would be at least 1½ points stronger.

I think people need to understand what that means to the average family in terms of if real interest rates really do come down, as they are now coming down. As a matter of fact, I think just with what we have been doing, and the belief now in the financial markets that we are finally serious, Congress is serious about putting the Federal Government on a diet and limiting the growth of entitlements, we are already seeing the benefits of that.

What this will mean to an average family is, the average cost of a mortgage will drop by $210 a month. The average student loan repayment would drop by $4 a month. A car loan would be $9 a month cheaper. The child tax credit, the economic growth advantages all add up to an increase to the average family of at least $329 a month.

That may not seem like much to some folks, but to the average family trying to get by on $30,000 a year, it works out to $2,300. What we are really talking about is allowing them to keep more of their own money so they can invest and save, and they can be responsible for themselves.

There are enormous benefits if we can simply, for the first time, have the moral courage to say no to some of those interest groups, to limit the growth of entitlements, to actually downsize the Federal Government. We will have eliminated, at least on the House side, over 300 programs. We hope many of those cuts will survive.

The benefits are so fundamental sometimes those do not get talked about enough. And I would yield back to the gentleman from Florida. Mr. SCARBOURGH. I do not know if the gentleman was with us when we had some of the top investment minds in this country from Wall Street come down and talk to our conference, but what did they tell us? They told us, go ahead. If you have to draw a line in the sand and shut down the Federal Government make a point to force a balanced budget. Go ahead, and do it.

They said Secretary Rubin is telling you that it will cause financial chaos, but that is not the case. They told us what will cause financial chaos is if you continue to allow deficits to soar in the next 40 years the way we have allowed them to soar over the past 40 years. It will cause an incredible destructive result on Wall Street and in financial markets around the world.

And you are enough, did you notice that during the Government shutdown that was supposed to cause such conflict that the stock market reached an all-time high and that every indicator was positive?

When we talk to the leading traders on Wall Street, what do they say? They say the reason why is because the Congress has finally showed that they are ready to put the interests of our country in order. They have finally shown that they are going to stop stealing from future generations and start doing what Americans have had to do for 200 years and balance their checkbook.

They said, ‘If you will just hold the line. Your message will get out. And at that time we were upset about getting bashed on Medicare. They said, sure, right now there may be short-term political gain for the other side for attacking you for daring to save Medicare, but on Wall Street and in my business, they said if you raise spending by 45 percent, that is not a cut. And they got the numbers out, got the calculators out, and, sure enough, a 45 percent increase in Medicare is exactly what we are proposing. We are looking at cutting what we have already said.

This is a moral issue. More important than that, if we look at what we have done since we have been elected, we have caused interest rates to go down 2 percent because we vowed, elect us, send us to Congress. We will keep our word. We will balance this budget, we will save future generations. And they said to us, these Wall Street traders, the top Wall Street minds said to us, give yourself a pat on the back. You are responsible for the interest rates dropping 2 percent because you finally have gotten serious about balancing the budget. You have finally dared to make a difference. You have finally stood up to special interests. You have finally stood up to bureaucrats. You have finally said good riddance to the tax-and-spend policies that have destroyed this country for the past 40 years.

I think, more importantly, and I cannot say it enough, it is not merely an economic issue. We could be the richest country in the world, but if we failed to be decent, we would be a failure. We have heard the quote before, America is great because America is good. And when America ceases to be good, then it will cease being great. And what is great about saving money to the future generations?

I do not care how people want to gloss over the fact, when we spend money that we do not have, when we are $5 trillion in debt, when the Japanese and the Germans and people on Wall Street are holding these bonds, who is going to pay those bonds off, if not us?

If not us, it will be my 7-year-old, Joey, and my 4-year-old, Andrew. It is going to be your children. It is going to be grandchildren of those people that watch the House every day. It is going to be future generations.

For all the talk about how mean spirited we are, it seems to me that we have offered the only compassionate plan to save future generations from the mean spiritedness of the liberal/socialists that have been running this institution for too long and putting forward tax-and-spend proposals that steal from your children and your children and their children.

This is neither a Republican or a Democratic issue. This is about having the discipline and the decency to finally balance the budget and allow our children to have a better future than we ever had. That is what it is all about: Future Americans to get back on our backs, that we can ensure that when we pass the torch to the next generation, that that generation will be assured that they will have the opportunities that we had.

That is not good enough. We want them to have a better life and more opportunities that we ever had. That is what every parent wants. That is what and that is why I am so proud to be part of an institution with Republicans and Democrats alike that this past week stood up, drew a line in the sand and said, ‘Enough is enough. We are going to get our financial House in order.’

Mr. GUTKNECHT. If the gentleman would yield, I would say one of my favorite heroes in world history was Winston Churchill. My wife needle-pointed for me one of my favorite quotes from Winston Churchill, which I have in my office. It says, ‘Success is never permanent. Failure is seldom fatal. The only thing that really counts is courage.’

The thing that I feel proud about, what has happened in this Congress in the last 11 months, and particularly in this past week, we finally demonstrated some courage. I do not know if the American people have responded to that or whether they ever will. But you said this is really a moral issue. This is an un-American issue.

If we look historically, the people who started throwing tea in Boston Harbor, who started this great revolution that started this great American experiment in self-government, the reason partly, the reason that was because they did not believe in taxation without representation.

If we get down to the nub of it, when we talk about borrowing from future generations the way we have for so many years in this Government, it is taxation without representation, because we are taxing people who cannot even vote yet and it is morally wrong.

We know it is wrong.

Mr. SCARBOURGH. In the Midwest and we have an awful lot of farmers in the Midwest. Most of us are no more than one or two generations removed from the farm, and farmers know this. Most farmers, what they want to do is pay off the mortgage they think all Americans kids need to know in their bones that it is wrong.

I hope that all Americans will begin to realize that those days are over and
Tonight we started down that path. We dared to make a difference. We dared to balance the budget. I am going to be very proud tomorrow when I fly home and get off the plane and see my 7-year-old and 4-year-old and know that we had a part in history and a part in ensuring that their history will be even brighter than our own. That is all we can ask.

**LEAVE OF ABSENCE**

By unanimous consent, leave of absence was granted to:

- Mr. Bryant of Tennessee (at the request of Mr. Armey) for today on account of a death in the family.

**SPECIAL ORDERS GRANTED**

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

- The following Members (at the request of Mr. Roemer) to revise and extend their remarks and include extraneous material:
  - Mr. Doggett, for 5 minutes, today.
  - Mr. Wise, for 5 minutes, today.
  - Mr. Faleomavaega, for 5 minutes, today.
  - Ms. Jackson-Lee, for 5 minutes, today.
  - The following Members (at the request of Mr. Tiahrt) to revise and extend their remarks and include extraneous material:
    - Mr. Riggs, for 5 minutes, today.
    - Mr. Tiahrt, for 5 minutes, today.
    - Mr. Dornan, for 5 minutes, today.
    - Mr. Upton, for 5 minutes, today.
    - Mr. Fox of Pennsylvania, for 5 minutes, today.
    - Mr. Kim, for 5 minutes, today.
  - The following Member (at his own request) to revise and extend his remarks and include extraneous material:
    - Mr. Burton of Indiana, for 5 minutes, today.

**ENROLLED BILLS SIGNED**

Mr. Thomas, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were theretofore signed by the Speaker:

- H. J. Res. 122. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

**BILLS PRESENTED TO THE PRESIDENT**

Mr. Thomas, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

- H. J. Res. 122. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.
§ 1.02 Definitions

(1) the Office of the Chair;
(2) the Office of the Committee;
(3) the Office of the Director.

§ 1.04 Availability of Official Information

(1) Partly available for public inspection and copying.
(2) Available for public inspection and copying.

§ 1.05 Designation of Representative

(a) The term "representative" means any person designated by the Office of Compliance.
(b) The term "office" means the Office of Compliance.
(c) The term "document" means any written or recorded information.

§ 1.06 Maintenance of Confidentiality

(a) The term "confidential" means information that is not made public by the Office of Compliance.
(b) The term "application" means any written or recorded request made to the Office of Compliance.

§ 1.07 Scope and Policy

(a) The term "Board" means the Board of Directors of the Office of Compliance.
(b) The term "Chair" means the Chair of the Board of Directors of the Office of Compliance.
(c) The term "Executive" means the Executive Director of the Office of Compliance.

§ 1.08 Filing and Computation of Time

(a) The term "filing" means any written or recorded information.
(b) The term "service" means any written or recorded notice.

§ 1.09 Maintenance of Confidentiality

(a) The term "confidential" means information that is not made public by the Office of Compliance.
(b) The term "application" means any written or recorded request made to the Office of Compliance.

§ 1.10 Scope and Policy

(a) The term "Board" means the Board of Directors of the Office of Compliance.
(b) The term "Chair" means the Chair of the Board of Directors of the Office of Compliance.
(c) The term "Executive" means the Executive Director of the Office of Compliance.
hours so long as it does not interfere with the efficient operations of the Office. As ordered by the Board, identifying details or other necessary matters may be deleted and placed under seal. The Board, and in each case, the decision or order for the deletion shall be stated in writing.

(c) Copies of Forms. Copies of blank forms prescribed by the Office for the filing of complaints and other actions or requests may be obtained from the Office.

§1.05 Designation of Representative

(a) An employee, a witness, or an employing office wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney.

(b) Service where there is a representative. All service of documents shall be directed to the representative, unless the individual specifies otherwise and until such time as that individual notifies the Executive Director of an amendment or revocation of the designation of representative. Where a designation of representative is outstanding, all time limitations for receipt of materials by the represented individual shall be computed in the same manner as for unrepresented individuals with service of the documents, however, directed to the representative, as this chapter.

§1.06 Maintenance of Confidentiality

(a) Policy. In accord with Section 416 of the Act, it is the policy of the Office to maintain, to the fullest extent possible, the confidentiality of the proceedings and of the participants in proceedings conducted under Sections 402, 403, and 405 of the Act and these rules.

(b) At the time that any individual, employing office or party, including a designated representative, becomes a participant in counseling under Section 402, mediation under Section 403, the complaint and hearing procedures under Section 405, or appeal to the Board under Section 406 of the Act, or any related proceeding, the Office will inform the participant of the confidentiality requirements under Section 416 of the Act and these rules and that sanctions might be imposed for a violation of those requirements.

Subpart B—Procedures Applicable to Consideration of Alleged Violations of Part A Title II of the Congressional Accountability Act of 1995

§2.01 Matters Covered by Subpart B

§2.02 Requests for Advice and Information

§2.03 Counseling

§2.04 Mediation

§2.05 Election of Proceedings

§2.06 Complaints

§2.07 Appointment of the Hearing Officer

§2.08 Filing, Service and Size Limitations of Motions, Briefs, Responses and Other Documents

§2.09 Dismissal of Complaint

§2.10 Confidentiality

§2.11 Filing of Civil Action

§2.01 Matters Covered by Subpart B

(a) These rules govern the processing of any allegation that Sections 201 through 206 of the Act have been violated and any allegation of reprisal prohibited under Section 207 of the Act. Sections 201 through 206 apply to covered employees and employing offices certain rights and protections of the following laws:

1. The Fair Labor Standards Act of 1938
2. Title VII of the Civil Rights Act of 1964
3. The Age Discrimination in Employment Act of 1990
4. The Age Discrimination in Employment Act of 1967
5. The Family and Medical Leave Act of 1993
6. The Employee Polygraph Protection Act of 1988
7. The Worker Adjustment and Retraining Notification Act of 1988
8. The Rehabilitation Act of 1973

(b) This subpart applies to the covered rules and any exceptions within the coverage of the laws referred to in Section 2.01(a).

§2.02 Requests for advice and information

At any time, an employee or an employing office may seek from the Office informal advice and information. Such advice or information shall be made public, except as otherwise ordered by the Board.

§2.03 Counseling

(a) Initiating a proceeding: formal request for counseling. In order to initiate a proceeding under these rules, an employee who believes that he or she is covered by the Act shall formally request counseling from the Office regarding an alleged violation of the Act, as referred to in Section 2.01(a), above. All formal requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under Section 207 of the Act.

(b) Who may request counseling. A covered employee who believes that he or she has or has been or is the subject of a violation of the Act as referred to in Section 2.01(a) may formally request counseling.

(c) When, how and where to request counseling. A formal request for counseling:

(1) shall be made not later than 180 days after the date of the alleged violation of the Act; or

(2) may be made to the Office in person, by telephone, or by written request.

(3) A request for counseling shall be directed to: Office of Compliance, Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999; telephone: (202) 252-3100; FAX (202) 252-3115; TDD (202) 252-2520.

§2.04 Mediation

(a) Purpose of counseling period. The purpose of the counseling period shall be to: discuss the employee's concerns and elicit information regarding the matter(s) which the employee believes constitute a violation(s) of the Act; to advise the employee of his or her rights and responsibilities under the Act and the procedures of the Office under these rules; and to assist the employee in achieving an early resolution of the matter, if possible.

(b) Confidentiality and waiver. (1) Absent a waiver under paragraph 2, below, all counseling shall be strictly confidential. Nothing in these rules shall prevent a counselor from consulting with personnel within the Office concerned with the matter in counseling, except that, when the person being counseled is an employee of the Office, the counselor shall not consult with any individual within the employing office who is not authorized to enter into a settlement under these rules, seek the approval of the Executive Director, or authorize a release of information from the counseling process.

(2) In order to attempt to resolve the matter brought to the attention of the counselor, the counselor must obtain a written request for confidentiality pursuant to Section 2.01(e)(2) of this chapter. If the employee executes such a waiver, the counselor may:

(1) conduct a limited inquiry for the purpose of obtaining any information necessary to attempt an informal resolution or formal settlement;

(2) reduce to writing any formal settlement achieved and secure the signatures of the employee, his or her representative, if any, and a member of the employing office who is authorized to enter into a settlement on the employing office's behalf; and

(3) pursuant to Section 414 of the Act, obtain final decisions under these rules, seek the approval of the Executive Director.

(i) Counselor not a representative. The counselor in attempting informal resolution in order to attempt to resolve the matter brought to the attention of the counselor, the counselor must obtain a waiver of confidentiality pursuant to Section 2.01(e)(2) of this chapter. If the employee executes such a waiver, the counselor may:

(1) conduct a limited inquiry for the purpose of obtaining any information necessary to attempt an informal resolution or formal settlement;

(2) reduce to writing any formal settlement achieved and secure the signatures of the employee, his or her representative, if any, and a member of the employing office who is authorized to enter into a settlement on the employing office's behalf; and

(3) pursuant to Section 414 of the Act, obtain final decisions under these rules, seek the approval of the Executive Director.

The period for counseling shall be 30 days, beginning on the date that the request for counseling is received by the Office unless the employee and the Office agree to reduce the period.

(j) Duty to proceed. An employee who initiates a proceeding under this part shall be responsible at all times for proceeding, regardless of whether he or she has designated a representative. An employee, however, may withdraw from counseling at any time with or without prejudice to the employee's right to reinstatement counseling regarding the same matter, provided that counseling on a single matter will not last longer than a total of 30 days.

(l) Conclusion of the counseling period and notice. The Executive Director shall notify the employee in writing of the end of the counseling period, by return receipt requested. The Executive Director, as part of the notification of the end of the
counseling period, shall inform the employee of the right to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

(m) Employees of the Office of the Architect of the Capitol and Capitol Police. (1) Where an employee of the Office of the Architect or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect or of the Capitol Police. Pursuant to Section 403 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, the Executive Director will make such a recommendation to an employee who makes such a request under the Act.

(2) When an employee of the Office of the Architect or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the procedures of the Architect or of the Capitol Police Board, as appropriate, for a period generally up to 90 days after the request is filed, unless the Executive Director determines that a longer period is appropriate for resolution of the employee’s complaint through the internal procedures of the Architect or the Capitol Police Board.

(a) Notice to employees who have not initiated counseling with the Office. When an employee raises a complaint with the Office, any employee of the Architect or of the Capitol Police raises in the internal procedures of the Architect or of the Capitol Police Board an alleged violation of the Act, or an alleged violation of any other provision of law, or a violation of the Act or other final decision, set forth in any and all possibilities of reaching a voluntary, mutually satisfactory resolution.

(b) Notice of commencement of the mediation period. The Office shall notify the employee of the office or its designee who has been designated as the neutral and shall inform the employee of his or her right to file a complaint with the Office in accordance with Section 403 of the Act and Section 2.06 of these rules or to file a civil action pursuant to Section 408 of the Act and Section 2.11 of these rules.

(1) Independence of the Mediation Process and the Neutral. The Office will maintain the independence of the mediation process and the neutral. No individual, who is appointed by the Executive Director to mediate, may conduct or act in a hearing conducted under Section 405 of the Act with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

(2) The Office may extend the mediation period. The Office may extend the mediation period upon the joint request of the parties. The request shall be written and filed with the Office no later than the 28th day of the mediation period. The Office shall determine whether the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. The request to extend the mediation period shall be in writing and shall be filed with the Office.

(3) Notice in final decisions when employees have not initiated counseling with the Office. When an employee raises a complaint with the Office, any employee of the Architect or of the Capitol Police raises in the internal procedures of the Architect or of the Capitol Police Board an alleged violation of the Act, or an alleged violation of any other provision of law, or a violation of the Act or other final decision, set forth in any and all possibilities of reaching a voluntary, mutually satisfactory resolution.

(4) Notice in final decisions when there has been a recommendation by the Executive Director. When the Executive Director has made a recommendation under paragraph 1 above, the Office or the Capitol Police Board should include notice to the employee of his or her right to initiate the procedures under these rules within 30 days after the alleged violation occurred.

(b) Judicial Review. (1) The parties to the action and their representatives, the parties to the mediation, the neutral, and the Office shall disclose, or may in any other proceeding, any information or records obtained through, or prepared specifically for, the mediation process and all information, records, and depositions obtained from consulting with the Office, except that a neutral shall not consult with a party or witness within the Office when the covered employee is an employee of the Office. This rule shall also not preclude the Office from reporting statistical information that does not reveal the identity of the employees or employers or the offices involved in the mediation. All parties to the action and their representatives will be advised of the confidentiality requirements of this process and of the sanctions that might be imposed for violating these requirements.

§2.05 Election of Proceeding

(a) Pursuant to Section 404 of the Act, no later than 90 days after a covered employee requests notice to the Office of the Act and Section 2.11 of these rules, the covered employee may elect to file a complaint under Section 408 of the Act or to file a civil action pursuant to Section 408 of the Act and Section 2.11 of these rules.

(b) A complaint may be filed

(c) Form and Contents. A complaint shall be written or typed on a complaint form available from the Office. All complaints shall be filed by the covered employee, or his or her representative, and shall contain the following information:

(i) The name, mailing address, and telephone number(s) of the complainant;

(j) The time of the occurrence of the violation, the date on which the individual(s) involved in the action that the employee claims is a violation of the Act;
(3) the name, address and telephone number of the employing office involved;
(4) a description of the conduct being challenged and the date(s) of the conduct;
(5) a brief description of why the complainant believes the challenged conduct is a violation of the Act and the Section(s) of the Act involved;
(b) a statement of the relief or remedy sought; and
(7) the name, address, and telephone number of the representative, if any, who will act on behalf of the complainant;
(d) Amendments. Amendments to the complaint shall be filed with the Office, after assignment, by a Hearing Officer, on the condition that all parties to the proceeding have adequate notice to prepare to meet the amended complaint and so long as the amendments related to the violations for which the employee has completed counseling and mediation and permitting such amendments will not unduly prejudice the rights of the employing office or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.
(e) Service of Complaint. Upon receipt of a complaint or an amended complaint, the Office shall serve the complaint or amended complaint and a copy of these rules on the parties and their designated representatives.
(f) Answer. Within 15 days after service of a copy of a complaint or an amended complaint, the respondent employing office shall file an answer with the Office and serve one copy on the complainant and one copy on each other party.
(g) Amendments. The answer shall contain a statement of the position of the respondent employing office on each of the issues raised in the complaint, including admissions and denials of facts and allegations made in the complaint and any other defenses to the complaint. Failure to raise a claim or defense in the answer shall not bar its submission later unless to do so would unduly prejudice the rights of the other party or unduly delay or otherwise interfere with or impede the proceedings.
§ 6.01 Discovery
(a) Filing with the Office. Number one original and three copies of all motions, briefs, responses, or other documents. must be filed, whenever required, with the Office or Hearing Office. However, when a party aggrieved by the decision of a Hearing Officer files an appeal, one original and seven copies of any appeal brief and any responses must be filed with the Office.
(b) Service. The parties shall serve on each other copies of their briefs or motions made with the Office, other that the Complaint, which the Office will serve pursuant to Section 2.04(e) of these rules. Service shall be made by any method of delivery, including a copy of the motion, brief, response or other document to each party on the service list previously provided by the Office.
(c) Time limitations of response to motions or brief and reply. Unless otherwise specified by the Hearing Office or these rules, a party shall file a response to a motion or brief within 30 days of service of the motion or brief upon the party. Any reply to such response shall be filed and served within 5 days of the service of the response.
(d) Size limitations. If otherwise specified by the Hearing Officer or these rules, no brief, motion, response, or supporting memorandum filed with the Office shall exceed 20 pages or exclude attachments. The Office, the Board, or Hearing Officer may waive, raise or reduce this limitation for good cause shown or on its own initiative, responsibilities, and with the consent of the parties.
(e) Notice of the end of mediation. Pursuant to Section 7.17 of these rules, notice of the end of mediation pursuant to Section 7.17 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under Section 7.17.
(f) Withdrawal of Complaint by Complainant. Pursuant to Section 416(c) of the Act, the complainant may withdraw his complaint at any time an employee may withdraw his complaint at any time before the hearing officer issues a decision. A dismissal by the Hearing Officer, however, may be subject to appeal before the Board if the aggrieved party files a timely petition for review under Section 7.17.
§ 6.02 Requests for Subpoena
(a) Authority to issue subpoenas. At the request of a party, a Hearing Officer may issue subpoenas for the attendance and testimony of witnesses and for the production of documents, books, or other evidence under paragraph (a) above shall be submitted to the Hearing Officer at least 15 days in advance of the date scheduled for the commencement of the hearing.
(b) Request. A request for the issuance of a subpoena requiring the attendance and testimony of witnesses or the production of documents, books, or other evidence under paragraph (a) above shall be submitted to the Hearing Officer at least 10 days in advance of the date scheduled for the commencement of the hearing. If the subpoena is part of the discovery process, the request shall be submitted to the Hearing Officer at least 10 days in advance of the date scheduled for the commencement of the hearing.

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days in advance of the date set for the attendance of the witness at a deposition or the production of documents.

(c) Forms and showing. Requests for subpoenas shall be submitted in writing to the Hearing Officer and shall specify with particularity the witness, correspondence, books, papers, documents, or other records desired. Any failure to obey a lawful order of the district court may be punished as a contempt of court.

(d) Rulings. The Hearing Officer shall promptly rule on the request.

§ 6.03 Service of a subpoena

Service of a subpoena may be made by any person who is over 18 years of age and not a party to the proceeding. Service may be made either:

(a) In person,
(b) By registered or certified mail, or express mail with return receipt, or
(c) By delivery to a responsible person (the Hearing Officer or in his or her discretion, the party seeking compliance may seek a ruling from a Hearing Officer. The request for a ruling should be submitted in writing to the Hearing Officer. If a person has been served with a subpoena pursuant to Section 6.03 but fails or refuses to obey a lawful order of the district court, the Hearing Officer may order each party to produce evidence within the time specified in the order. If a person who disrupts, or threatens to disrupt, the Hearing Officer may disqualify any witness, or party, or any witness while testifying.

§ 6.05 Motion to quash

Any person against whom a subpoena is directed may file a motion to quash or limit the subpoena setting forth the reasons why the subpoena should not be compelled or why it should be limited in scope. This motion shall be filed with the Hearing Officer within 10 days after service of the subpoena.

§ 6.06 Enforcement

(a) Objections and Requests for enforcement. If a person has been served with a subpoena pursuant to Section 6.03 but fails or refuses to comply with its terms or otherwise objects to it, the party or person objecting to the subpoena seeking compliance may seek a ruling from a Hearing Officer. The request for a ruling should be submitted in writing to the Hearing Officer. If a person has been served with a subpoena pursuant to Section 6.03 but fails or refuses to obey a lawful order of the district court, the Hearing Officer may order each party to produce evidence within the time specified in the order. If a person who disrupts, or threatens to disrupt, the Hearing Officer may disqualify any witness, or party, or any witness while testifying.

(b) Ruling by Hearing Officer. (1) The Hearing Officer shall promptly rule on the request for enforcement and/or the objection.

(2) On request of the objecting 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.

(c) Review by the Board. The Board may overrule, modify, remand or affirm the ruling of the Hearing Officer and in its discretion, may direct the General Counsel to apply in the name of the Office for an order from a United States district court to enforce the subpoena.

(d) Application to an appropriate court; civil contempt. If a person fails to comply with a subpoena, the Board may direct the General Counsel to apply, in the name of the Office, for an order from a United States district court for an order requiring that person to appear before the Hearing Officer to give testimony or produce records. Any failure to obey a lawful order of the district court may be held by such court to be a civil contempt thereof.

Subpart G—Hearings

§ 7.01 The Hearing Officer

§ 7.02 Sanctions

§ 7.03 Disqualification of the Hearing Officer

§ 7.04 Motions and Prehearing Conference

§ 7.05 Scheduling the Hearing

§ 7.06 Consolidation and Joinder of Cases

§ 7.07 Conduct of Hearing; Disqualification of representatives

§ 7.08 Transcript

§ 7.09 Admissibility of Evidence

§ 7.10 Stipulations

§ 7.11 Official Notice

§ 7.12 Confidentiality

§ 7.13 Immediate Board Review of a Ruling by a Hearing Officer

§ 7.14 Briefs

§ 7.15 Consents to the record

§ 7.16 Official Record

§ 7.17 Hearing Officer Decisions; Entry in Records of the Office

§ 7.01 The Hearing Officer

(a) Exercise of authority. The Hearing Officer may exercise authority as provided in paragraph (b) of this Section upon his or her own initiative or upon the motion of a party, as appropriate.

(b) Authority. Hearing Officers shall conduct fair and impartial hearings and take all necessary action to avoid undue delay in the disposition of all proceedings. They shall have all powers necessary to that end unless otherwise limited by law, including, but not limited to:

(1) Administer oaths and affirmations;

(2) Rule on motions to disqualify designated representatives;

(3) Issue subpoenas in accordance with Section 6.02;

(4) Rule on offers of proof and receive relevant evidence;

(5) Rule upon discovery issues as appropriate under Sections 6.01 to 6.06;

(6) Hold prehearing conferences for the settlement of issues; and

(7) Convene a hearing as appropriate, regulate the course of the hearing, and maintain decorum and exclude from the hearing any person who disrupts, or threatens to disrupt, that decorum;

(8) Exclude from the hearing any person, except any complainant, any party, the attorney or representative of any complainant or party, or any witness while testifying;

(9) Rule on all motions, witness and exhibit lists and proposed findings, including motions for summary judgment;

(10) Require the filing of briefs, memoranda of law and the presentation of oral argument with respect to any question of law;

(11) Order the production of evidence and the appearance of witnesses;

(12) Impose sanctions as provided under Section 7.02 of these Rules;

(13) File decisions on the issues presented at the hearing;

(14) Maintain the confidentiality of proceedings; and

(15) Waive or modify any procedural requirements of Sections 6 and 7 of these rules so long as permitted by the Act.

§ 7.02 Sanctions

The Hearing Officer may impose sanctions upon the parties, under, but not limited to, the circumstances set forth in this Section.

(a) Failure to comply with an order. Any party to a proceeding who fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party’s control, or for production of witnesses), the Hearing Officer may:

(1) Draw an inference in favor of the requesting party on the issue related to the information sought;

(2) Stay further proceedings until the order is obeyed;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought;

(4) Permit the party failing to produce secondary evidence concerning the information sought.

(b) Any party may file a motion requesting that a Hearing Officer withdraw on the basis of personal bias or of an interest in the case or for some other disqualifying reason. This motion shall specifically set forth the reasons supporting the request and be filed as soon as the party has reason to believe that there is a basis for disqualification.

(c) Any party may file a motion requesting that a Hearing Officer withdraw on the basis of personal bias or of an interest in the case or for some other disqualifying reason. This motion shall specifically set forth the reasons supporting the request and be filed as soon as the party has reason to believe that there is a basis for disqualification.

(d) The Hearing Officer may disqualify any witness, or party, or any witness while testifying.

§ 7.03 Disqualification of the Hearing Officer

(a) In the event that a Hearing Officer considers himself or herself disqualified, either because of personal bias or of an interest in the case or for some other disqualifying reason, he or she shall withdraw from the case, sitting in writing or orally, for the reasons for his or her withdrawal, and shall immediately notify the Office of the withdrawal.

(b) Any party may file a motion requesting that a Hearing Officer withdraw on the basis of personal bias or of an interest in the case or for some other disqualifying reason. This motion shall specifically set forth the reasons supporting the request and be filed as soon as the party has reason to believe that there is a basis for disqualification.

(c) The Hearing Officer may dismiss the action with prejudice or rule for the petitioner.

(d) The Hearing Officer may either party file additional responses to any objection to the ruling of the Hearing Officer or the Board finds that the failure was substantially justified or that other circumstances make an award of attorney’s fees and/or expenses unjust.

(e) Failure to prosecute or defend. If a party fails to prosecute or defend a position, the Hearing Officer may disqualify any witness, or party, or any action that is not filed in a timely fashion in compliance with this Part.

§ 7.04 Motions and Prehearing Conference

(a) Motions. When a case is before a Hearing Officer, motions of the parties shall be filed with the Hearing Office and shall be in writing except for oral motions made on the record during the hearing. All written motions and any responses to them shall include a proposed order, where applicable. Only with the Hearing Officer’s advance approval may any party file a response to any oral responses to the motion or to the response to the motion. Motions for extension of time will be granted only for good cause shown.

(b) Scheduling of the Prehearing Conference. Within 7 days after assignment, the Hearing Officer shall serve on the employee and the employer, or their designated representatives, written notice setting forth the time, place, and date of the prehearing conference.

(c) Prehearing conference memorandum. The Hearing Officer may order each party to prepare a prehearing conference memorandum. That memorandum may include:

(1) Major factual allegations and legal issues that the party intends to raise at the hearing in short, successive, and numbered...
§ 7.05 Scheduling the Hearing
(a) Date, time, and place of hearing. The Office shall issue the notice of hearing, which shall fix the date, time, and place of hearing. In no event will a postponement granted by the Office will a hearing commence earlier than 60 days after the filing of the complaint.
(b) Motions for postponement or a continuance. Motions for postponement or for a continuance by either party shall be made in writing to the Office, shall set forth the reasons for the request and the position of the opposing party on the postponement. Such a motion may be granted upon a showing of good cause. In no event will a hearing commence later than 90 days after the filing of the complaint.
§ 7.06 Consolidation and joinder of cases
(a) Explanation. (3) Consolidation is when two or more parties, whose claims are related, are treated as one because they contain identical or similar issues or in such other appropriate circumstances.
(b) Joinder of cases when one person has two or more claims pending and they are united for the purpose of having them disposed of by one judgment. Such a pleading shall be treated as one because they contain identical or similar issues or in such other appropriate circumstances.
(c) Dismissal of pending actions. (2) Joinder is when one person has two or more claims pending and they are united for the purpose of having them disposed of by one judgment. The Office may, by agreement, make arrangements with the Office hearing officer for required services to be rendered the requester.
(b) Corrections. Corrections to the official transcript will be permitted. Motions for correction must be submitted within 10 days of receipt of the official transcript. Corrections to the official transcript will be permitted only when errors of fact or of law are apparent. Corrections of the official transcript will be permitted only when errors of fact or of law are apparent. Corrections to the official transcript will be permitted only when errors of fact or of law are apparent. Corrections of the official transcript will be permitted only when errors of fact or of law are apparent.
§ 7.07 Conduct of Hearing; disqualification of representatives
(a) Pursuant to Section 405(d)(1) of the Act, the Hearing Officer will conduct the hearing in accordance with the law. The Office, the parties and their representatives, and witnesses during the time they are testifying, will be permitted to attend. The witness may be excluded from observing the hearings. The Office, or a person designated by the Hearing Officer or the Executive Director, shall control the recording of the proceedings.
(b) The hearing will be conducted as an administrative hearing, where the record should be entered for the opposite party a typed transcript. A witness shall testify under oath or affirmation. Except as specified in the Act and in these rules, the Hearing Officer will conduct the hearing, to the greatest extent possible, in accordance with the principles and procedures in Sections 554 through 557 of title 5 of the United States Code. (c) No later than the opening of the hearing, or as otherwise ordered by the Hearing Officer, each party shall submit to the Hearing Officer and to the opposing party a typed transcript. A witness shall testify under oath or affirmation. Except as specified in the Act and in these rules, the Hearing Officer will conduct the hearing, to the greatest extent possible, in accordance with the principles and procedures in Sections 554 through 557 of title 5 of the United States Code. (d) At the commencement of the hearing, or as otherwise ordered by the Hearing Officer, the Hearing Officer may consider any stipulations of facts and law pursuant to Section 7.10, take official notice of certain facts previously found, rule on objections made by the parties and hear the examination and cross-examination of witnesses. Each party will be expected to present his or her cases in a concise manner, limiting the testimony of witnesses and submission of documents to relevant matters. (e) If the Hearing Officer concludes that a representative of an employee, a witness, or an employing office has a conflict of interest, he or she may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits established by the Act, the affected party will have a reasonable opportunity to replace the representative.
§ 7.08 Transcript
(a) Preparation. An accurate electronic or stenographic record of the hearing shall be kept and shall be the official record of the proceeding. The Hearing Officer shall be responsible for the transcription of the hearing. Upon request, a copy of a transcript of the hearing shall be provided to each party. The Hearing Officer may determine that a party has first agreed to maintain and respect the confidentiality of such transcript in accordance with the applicable rules prescribed by the Office or the Hearing Officer in order to effectuate Section 416(c) of the Act. Additional copies of the transcript shall be made available to a party upon payment of costs. Exceptions to the payment requirement may be granted for good cause shown. A motion for an exception shall be made in writing and accompanied by affidavit or declaration setting forth the reasons for the request and shall be granted upon a showing of good cause.
(b) Corrections. Corrections to the official transcript will be permitted. Motions for correction must be submitted within 10 days of receipt of the official transcript. Corrections to the official transcript will be permitted only when errors of substance are in fact made. Corrections may be made at any time with notice to the parties.
§ 7.09 Admissibility of Evidence
The Hearing Officer shall apply the Federal rules of evidence to the greatest extent practicable. These rules provide that the Hearing Officer may exclude evidence, if among other things, the evidence consists of inadmissible hearsay or its probative value is substantially outweighed by the danger of unfair prejudice, by confusion of the issues, or by considerations of delay, waste of time, or needless presentation of cumulative evidence.
§ 7.10 Stipulations
The parties may stipulate as to any matter of fact. Such a stipulation will satisfy a party’s burden of proving the fact alleged.
§ 7.11 Official Notice
The Hearing Officer on his or her own motion or on motion of a party, may take official notice of a fact that is not subject to reasonable dispute because it is either: (a) A matter of common knowledge; or (b) capable of accurate and ready determination by recourse to sources whose accuracy cannot reasonably be questioned. Official notice taken of any fact satisfies a party’s burden of proving the fact noticed.
Where a decision, or part thereof, rests on the official notice of a material fact not appearing in the record, the fact of official notice shall be so stated in the decision, and any party, upon timely request, shall be afforded an opportunity to show the contrary.
§ 7.12 Confidentiality
Pursuant to Section 416 of the Act, all proceedings and deliberations of Hearing Officers and the Board, including the transcripts of any related records, shall be confidential, except as specified in Section 416(d), (e), and (f) of the Act. All parties to the proceeding and their representatives, and other individuals who appear and who are advised of the importance of confidentiality in this process and of their obligations, subject to sanctions, to maintain it.
§ 7.13 Immediate Board Review of a Ruling by a Hearing Officer
(a) Review strongly disfavored. Board review of a ruling by a hearing officer while a proceeding is ongoing is disfavored. In general, a request for interlocutory review may go before the Board for consideration only if the Hearing Officer, on his or her own motion or upon motion of the affected party, determines that the issue presented is of such importance to the Board upon review. Responses, if any, shall be filed with the Hearing Officer within 3 days after service of the motion.
(b) Standards for review. In determining whether to forward a request for interlocutory review to the Board, the Hearing Officer shall consider the following:
(1) Whether the ruling involves a significant question of law or policy about which there is substantial ground for difference of opinion; and
(2) Whether an immediate review of the Hearing Officer ruling by the Board will materially advance the completion of the proceeding; and
(c) Time for filing. A motion for interlocutory review of the Hearing Officer action by the Board upon review. Responses, if any, shall be filed with the Hearing Officer within 3 days after service of the motion.
(d) Hearing Officer action. If the conditions set forth in paragraph (b) above are met, the
§7.17 Hearing Officer Decisions; Entry in Records of the Office

(a) Pursuant to Section 405(g) of the Act, no later than 90 days after the conclusion of the hearing, the Hearing Officer shall issue a written decision.

(b) Upon issuance, the decision and order of the Hearing Officer shall be entered into the records of the Office.

(c) The Office shall promptly provide a copy of the decision and order of the Hearing Officer to the parties.

(d) If a party requests a final decision of the Office, that decision becomes final and the Hearing Officer shall enter it into the record of the Office.

§8.01 Appeal to the Board

(a) No later than 30 days after the entry of the decision of the Hearing Officer in the records of the Office, an aggrieved party may file a notice of appeal with the Office and request that the Board issue a written decision on appeal.

(b) Upon issuance, the Board shall issue a written decision.

Subpart H—Proceedings Before the Board

§8.02 Compliance with Final Decisions, Requests for Enforcement

§8.03 Judicial Review

(a) Pursuant to Section 407 of the Act, a party aggrieved by a final decision of the Office may file a petition for review with the United States Court of Appeals for the Federal Circuit.

(b) The party may seek judicial enforcement of its decision before the Board by filing a petition for enforcement of a Final Decision with the United States Court of Appeals for the Federal Circuit.

Subpart I—Other Matters of General Applicability

§9.01 Attorney’s Fees and Costs

§9.02 Ex Parte Communications

§9.03 Settlement Agreements

§9.04 Revocation, amendment or waiver of rules

§9.01 Attorney’s Fees and Costs

(a) Pursuant to Section 406(e) of the Act in cases arising under Subpart A of Title II of the Act may file a petition for review with the United States Court of Appeals for the Federal Circuit.

(b) Pursuant to Section 404(c) of the Act, in conducting its review of the decision of a Hearing Officer, the Board shall set aside a decision 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;

3. unsupported by substantial evidence.

(h) In making determinations under paragraph (g), above, the Board shall review the transcript of the hearing, the exhibit, and any other documents or other evidence not in the record, and any other evidence it considers necessary.

(i) Record: what constitutes. The complaint and any amendments, notice of hearing, answer and any amendments, motions, rulings, orders, stipulations, exhibits, documentary evidence, depositions, and the transcript of the hearing (together with any electronic recording of the hearing if the original reporting was performed electronically) together constitute the record. The complaint and the petition for review, and any cross-petition, shall constitute the record in the case.

§8.02 Compliance with Final Decisions, Requests for Enforcement

(a) A party required to take any action under the terms of a final decision of the Office shall carry out its terms promptly, and shall in no event exceed 21 days following service of the decision or order.

(b) If the failure to comply to the Board and required to take any such action shall submit a complaint report specifying the manner in which compliance with the provisions of the decision or order has been accomplished. If complete compliance has not been accomplished within 30 days, the party required to take any such action shall submit a complaint report specifying why compliance with any provision of the decision order has not yet been fully accomplished.

(c) The Office may require additional reports as necessary.

(d) If the Office does not receive notice of compliance in accordance with paragraph (a) or (b), an order of the Office shall be issued directing the Office to show cause why full compliance is not achieved.

(e) The Office may order the party to show cause why full compliance will be achieved.

(f) The Office may require additional reports as necessary.

(g) If the Office does not receive notice of compliance in accordance with paragraph (a) or (b), an order of the Office shall be issued directing the Office to show cause why full compliance will be achieved.

(h) If the Office does not receive notice of compliance in accordance with paragraph (a) or (b), an order of the Office shall be issued directing the Office to show cause why full compliance will be achieved.

(i) The Office may order the party to show cause why full compliance will be achieved.

§7.16 Official Record

The transcript of testimony and the exhibits, together with the papers and motions filed in the proceeding, shall constitute the official record.
MEMORIALS

Under clause 4 of rule XXII.

177. The SPEAKER presented a memorial of the Senate of the Commonwealth of Puerto Rico, relative to communicating the Senate of Puerto Rico's Governor Pedro J. Rossello's efforts to advance a new tax credit incentive program entitled section 1397 as a replacement of section 936 of the Internal Revenue Code; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

H.R. 2657: Mr. EMERSON, Mr. DOOLITTLE, Mr. LAUGHLIN, Mr. STOCKMAN, and Mr. DOOLEY.

H.R. 2658: Mr. BROUDER, Mr. FRANK of Massachusetts (for himself and Mr. BLUTE) introduced a bill (H.R. 2678) to authorize funds to further the public service mission of the Joseph W. Martin, Jr. Institute for Law and Society; which was referred to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. BLUTE.
H.R. 497: Mr. BARRETT of Wisconsin, Mr. SAWYER, and Ms. EDDIE BERNICE JONSON of Texas.
H.R. 972: Mr. CAMP.
H.R. 1127: Mr. DELLUMS, Mr. NETHERCUTT, Mr. ROYCE, and Mr. ZEUS.
H.R. 1305: Mr. GREEN of Texas, Mr. WAXMAN, and Mr. EVANS.

H.R. 1363: Mr. BEREUTER.
H.R. 1406: Mr. DUNCAN.
H.R. 1448: Mr. JOHNSTON of Florida.
H.R. 1496: Mr. CUNNINGHAM.
H.R. 1659: Mr. BONO, Mr. CLINGER, and Mr. DURBIN.
H.R. 1747: Mr. PASTOR and Mr. KENNEDY of Rhode Island.
H.R. 1787: Mr. STOCKMAN.
H.R. 1856: Mr. HEINEMAN and Mr. LEWIS of Kentucky.
H.R. 2111: Mr. PICKETT, Mr. SISISKY, and Mr. ENDEL.
H.R. 2206: Mr. SHAYS, Mr. HOYER, Mr. MCDERMOTT, Mr. LAZZO of New York, Mr. ROYCE, Mr. LONDERY, Mr. GILCHRIST, Mr. SCHIFF, Mr. COLLINS of Georgia, Mr. WICKER, and Mr. FLANAGAN.
H.R. 2101: Mr. WAXMAN, Mr. LOFGREN, Mr. JEFFERSON, Mr. JOHNSTON of Florida, Mr. MANTON, and Mr. VENTO.
H.R. 2133: Mr. DELUSS.
H.R. 2137: Mr. ENGLISH of Pennsylvania.
H.R. 2147: Mr. HAMILTON.
H.R. 2178: Mr. WARD.
H.R. 2205: Mr. NADER.
H.R. 2276: Mr. DIAZ-BALART.
H.R. 2281: Mrs. MORELIA, Mr. SAWYER, Mr. BRYANT of Texas, and Mr. LOMBION.
H.R. 2312: Mr. BLUTE, Mr. F., Mr. F., and Mr. F.
H.R. 2351: Mr. FRANKS of New Jersey.
H.R. 2367: Mr. COMBEST and Mr. MCTINTOSH.
H.R. 2372: Mr. GOODLING, Mr. FAWELL, Mr. KNOLENDEN, Mr. NORWOOD, Mr. GREENWICH, Mr. BURR, and Mr. GUNDERSON.
H.R. 2400: Mr. FOX and Mr. KLECZKA.
H.R. 2407: Mr. JOHNSTON of Florida.
H.R. 2412: Mr. JOHNSTON of Florida.
H.R. 2471: Mr. SMITH of Michigan.
H.R. 2472: Mr. RAHALL, Mr. ENDEL, Mr. WILSON, Mr. WISE, Mr. FRISAl, Mr. BISHOP, Mr. FARG, Mr. HAMILTON, and Mr. DURBIN.
H.R. 2493: Mr. MINGE.
H.R. 2507: Mr. NEY and Mr. GREEN of Texas.
H.R. 2567: Mr. EMERSON, Mr. DOOOLITTLE, Mr. LAUGHLIN, Mr. STOCKMAN, and Mr. DOOLEY.
H.R. 2592: Mr. UNDWOOD.
H.R. 2634: Mrs. KELLY.
H.R. 2677: Mr. BEVAN, Mr. SMITH of Massachusetts, Mr. CHAMBERS, Mr. PETERSON of Minnesota, Mr. POPLIN and Mr. CROPO.
H.R. 2676: A bill to amend the Internal Revenue Code of 1986 to provide for the non-recognition of gain for sale of stock to certain farmers’ cooperatives, and for other purposes; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska (for himself, Mr. HANSEN, Mr. SAXTON, Mr. CALVERT, and Mr. HAYWORTH):

H.R. 2677: A bill to require the Secretary of the Interior to accept from a State donations of services of State employees to perform, in a period of Government budgetary shutdown, otherwise authorized functions in any unit of the National Wildlife Refuge System or the National Park System; to the Committee on Resources.

By Mr. FAZIO of California:

H. Res. 281. Resolution designating minority membership on certain standing committees of the House, considered and agreed to.

By Mr. KENNEDY of Rhode Island:

H.R. 2678: A bill to establish a grant program to install safety devices and improve safety at convenience stores; to the Committee on Economic and Oversight.

By Mr. CREMEANS:

H.R. 2679: A bill to authorize the use of fishery resource disaster assistance as follows: the amounts of allowable earnings under the Interjurisdictional Fisheries Act of 1986 to include the jurisdiction of the committee concerned.

By Mr. HYDE (for himself, Mr. MOOREHEAD, Mr. SENSENBRUNNER, Mr. GEKAS, Mr. COBLE, Mr. SMITH of Texas, Mr. CANADY, Mr. BONO, Mr. BRYANT of Tennessee, and Ms. LOFGREN):

H.R. 2678: A bill to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property; to the Committee on the Judiciary.
The Senate met at 10:30 a.m., and was called to order by the President pro tempore (Mr. THURMOND).

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PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, our gracious heavenly Father and Lord of all life, we praise You for hearing and answering our prayers. Today, we are very aware of how You work through men and women to get Your work done. Without You, we cannot; without us You will not. You are the source of all that we have and are. We are thankful that there is no limit to what can be accomplished when we humbly give You the glory and no limit to the problems that can be solved when we diligently seek what is best for our Nation.

You have been at work through us to plan for the future of our Nation. We thank You for using leaders in both parties to break the deadlock and get the Government moving again. Help us to affirm the truths we have claimed together for our fiscal future and inspire us to resolve differences that remain. We press on with awe and wonder over this vivid reminder of Your direct involvement in all the details of our lives and of Your willingness to accomplish Your plan through us. In the name of our Lord, Amen.

The PRESIDING OFFICER (Mr. COVERDELL). The able majority leader is recognized.

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SCHEDULE

Mr. DOLE. Mr. President, for the information of my colleagues, there will be a period for morning business with Senators entitled to speak up to 10 minutes each. Today, we expect to adopt an adjournment resolution in time for the Senate to adjourn for Thanksgiving. It is possible the Senate may consider any legislative or executive items that have been cleared for action, but there will be no votes today.

The House will not start voting until 5 o’clock this afternoon. Hopefully, they can have a near-unanimous vote on the resolution we passed yesterday to keep the Government going until December 15. If something should happen there, if there should be an amendment or something, we would be coming back an hour after that final disposition. I do not think that will happen, but we will have to leave that possibility open, just in the event there should be some other action on the House floor.

A BUDGET TO BE THANKFUL FOR

Mr. DOLE. Mr. President, the past few days have been historic ones in Washington, DC. As we approach Thanksgiving, I believe our children and our grandchildren will have a lot to be thankful for. They may not understand it. Maybe their parents will not understand it, maybe their grandparents will not understand it, but I do believe we have provided the leadership the American people have been waiting for, the leadership to do the most important thing we could ever do: pass a balanced budget for the first time in a generation.

While President Clinton says he opposes our budget, last night the Republican majority reached an agreement with the White House, with the President and congressional Democrats to enact legislation before the end of this year to balance the budget by the year 2002 using honest economic estimates of the Congressional Budget Office, a balanced budget in 7 years. That is what this discussion has been all about. We have never lost sight, on our side of the aisle, of our principles. We are fighting for America’s future. Some may not appreciate it, some may not understand it, but that is what the battle is all about.

We would like to make budget deficits a thing of the past. As we no mistake about it, this is all about America’s future, all about generations yet to come. This may be our—maybe not last, but one of our best opportunities to make fundamental change in the way we do business, the way the Government does business, so that our children will inherit something. Maybe they can inherit a dream rather than crushing debt.

I think we owe all Americans an economy with lower interest rates so more people can buy a car, farm machinery, take out a college loan, or realize a lifetime dream of maybe buying a home. Believe me, if you look at the numbers—not my numbers but numbers from experts in the field—if, in fact, we have a balanced budget over 7 years, the markets will respond, interest rates will fall. It is like a tax cut. For every American it is like a big tax cut. If you pay less interest when you buy a car, buy a home, student loan, it is just as much money in your pocket as a tax cut would be.

So, for the hard-working Americans, we owe it to them to do what we should do. We owe it to America’s seniors to save Medicare from bankruptcy, just as we saved Social Security from bankruptcy in 1983 in a bipartisan way. President Reagan, a Republican, Tip O’Neill, Democratic Speaker of the House, and Howard Baker, Republican leader of the Senate, put together a commission—and I was honored to be on the commission with the likes of Claude Pepper of Florida, the champion of senior citizens, and many others—and, in a bipartisan way, we rescued Social Security from bankruptcy in 1983.

I think we owe it to American families to give them back more of their
own money—their money. I have repeated this story many times. We have a $500-per-child tax credit in the Republican plan. The President has $300 under a little different conditions. I met a man in Jacksonville, FL, who told me about 12 children—12. He said, ‘‘Ten times 500 is $5,000.’’ And he said, ‘‘Senator, I can spend that money better for my children than you or anybody else in Washington, DC.’’ That is what the tax credit is all about.

About 70 percent, nearly 80 percent of our tax money goes to families with children, or reduce the marriage penalty, or go to other areas we believe are family related. We also owe it to families who are trapped in the welfare system to create a new system based on work and hope and opportunity.

We believe we have a good plan—I think the Senate bill which passed, as I recall 87 to 12, it would have been 88 to 12 but Senator HATFIELD was unavoidably absent that day—and we are going to change welfare as we know it. It is going to be helpful to those who must rely on welfare.

We are going to send it back to the States. I just finished talking to the Republican Governors, by satellite, in New Hampshire. They are excited about the prospect. Let them make the decisions. They are excited about welfare reform. They are excited about returning Medicaid to the States.

I think, finally, we owe it to the American people just to keep our word and keep our promise. I know there is not a lot of precedent for it. They may not be used to it. But these things were promised the American people in 1994, and they are being delivered in 1995. We cannot do everything in 1 year. When you have had 40 years going the other direction of a bigger central government, more spending, more taxes, it may take more than one session of Congress to turn it all around. But this is the direction we are going in. This is only the beginning, but it is a start of the process.

We have been told that we can do it in 7 years. Those are the estimates of the nonpartisan Congressional Budget Office, which, I might add, have been, I think, right 14 out of 16 times when you compare the projections of the Congressional Budget Office and the Office of Management and Budget in the White House. That would be under Presidents of both parties. That is not ironclad, but it is a fair statement.

So, I thank all my colleagues, and I thank Senator DASCHLE, obviously, and others on the Democratic side, for coming together on an agreement. We can all say who won or who lost, but I think the bottom line is Federal employees are back at work. They are going to be paid. They are not going to suffer any loss of pay.

If we do what we should do between now and December 15, it will not make any difference who won and who lost. I think we won. We did not blink. We have a 7-year balanced budget using CBO estimates. But that may not be important. The important thing is, if we do what we should do working together, the big winners will be the American people. The children will not understand it, and the grandchildren, but will understand it 5 or 10 or 15 years from now when they are looking for work, or want to get married, or want to buy a car, or want to go to college.

If we have turned the country in the right direction—right now I think 70 percent of the American people say we are going in the wrong direction—if we downsize the Government, and if we reconnect the values of this Government of ours with the average American out there, and if we regain our place as the leader of the international community, then I believe that we are off to a good start.

Everybody can take credit—Republicans, Democrats, the President, whoever, and it would be deserved. If we do the wrong thing, then I believe the American people will rebel. They will say, ‘‘Well, business as usual. They talk a good game but it never happens.’’

So I am excited today about the direction and excited about the agreement. I believe the House will pass the agreement we sent over last night, and I hope unanimously without much discussion. Then I would assume a week from today we will start the serious negotiations. We will be working with all of our colleagues on this side, and certainly I know Senator DASCHLE will work with his colleagues on the other side for input. We have also invited the Republican Governors to give us input, which I think is very important.

So I want to thank my colleagues for their cooperation and wish them a well-deserved and happy Thanksgiving.

I yield the floor.

Mr. THURMOND, Mr. President, will the able Senator yield?

Mr. DOLE. I am happy to yield.

EXPRESSION OF APPRECIATION FOR SENATOR DOLE

Mr. THURMOND. Mr. President, as the President pro tempore of the Senate and on behalf of the Senate, I want to express our appreciation to our able majority leader for the great work he has done in getting the Government back into operation and for accomplishing what we did over the weekend. Without his leadership, it could not have been done. We are very appreciative of all that he does for the Senate, and this is another incident of his outstanding leadership for this country.

Mr. DOLE. I thank my friend from South Carolina.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. LEAHY, Mr. President, I applaud leaders on both sides of the aisle for the work that was being done around here this weekend. I saw the hard work of Senator DASCHLE, and Senator DOLE, and of everybody else.

Mr. DOLE. I think it is a moment to applaud a lot of people whose names and faces do not get on the news, the men and women who keep the Congress running—many of whom were here not knowing whether they were going to be paid, who worked 16, 17, 20 hours a day, ordinary hours well past midnight night after night, whether they are the parliamentarians, the clerks, the security guards, the Capitol Police, the young pages, the men and women who come here to learn of the Government, whether they are from Vermont or any other State. The staff of Senators, Republicans and Democrats alike—those in the Cloakroom who, when many of us were able to go home at night, had to stay there for hours and hours after the time in case votes came up and we were called, and the same in the other body.

Those who keep doors open, those who make it possible for us to fulfill our constitutional responsibility to America to have this body—this body which should be the conscience of the Nation—open to the public; those who make sure that any member of the public who came here, even though Washington was shut down, could at least come and visit the Congress, and either be enlightened or enraged by the debate, depending upon how they might feel.

GOVERNMENT EMPLOYEES

Mr. LEAHY. Mr. President, I will speak of other Government employees now. I strongly support the agreement's commitment to provide back pay for the thousands of employees and their families who were forced off the job last week through no fault of their own. It was an insult to these households held hostage through our inability to agree on a workable Government budget for all Americans. I regret that the shutdown punished hard-working families, not some faceless bureaucrats as some would have you believe. I know just awful lot of men and women in Vermont who work very hard at keeping the Government of this great country running, from the Immigration and Naturalization Service to the Justice Department and Agriculture, food service, on and on. These are hard-working people. They are the Cal Ripkens of the Government who show up for work every single day, do their job, do it very best they can, and suddenly are told they are not essential. I do not believe that they have been doing, and they have sent home through no fault of their own. They just want to work. I had so many call my home, call my office, and
say: We are ready to come to work. We will volunteer. There are things that have to be done. Passports have to be issued; social welfare claims have to be heard; and so on. It is the same throughout this country.

Remember the same Government employees who died for this country in Oklahoma, these same Government employees who make the greatest democracy on Earth operate with a quarter of a billion people. They should not become pawns in a budget chess match.

THE BIPARTISAN BUDGET AGREEMENT

Mr. LEAHY. Mr. President, I applaud the bipartisan budget agreement that was reached yesterday between President Clinton and the congressional leaders in both parties because it ends the longest Government shutdown in our history, and it sets the stage for bipartisan negotiations to achieve a balanced budget that will serve our most needy citizens.

So it is truly a bipartisan compromise in the best sense of both of those words. It is a bipartisan political. It uses common sense to reach shared values. It commits Congress and the President to the worthy goal of a balanced budget in 7 years while also committing us to achieve a balance with cuts, with cuts, not just “hard, cold, numbers crunching,” as the expression goes. We are past, I hope, the political posturing and the finger pointing.

Thanks to those Government employees who will keep the Government working during the time of the negotiations in the coming weeks as the Congress and the President build on this temporary agreement. It is not going to be easy. But we have to succeed.

I suggest three principles of common sense and reason to make these negotiations work.

First, scale back the $245 billion in tax cuts in the Republican budget plan. I learned many years ago that the best way to get out of a hole is to stop digging. Past Presidents and Congresses have spent our country into a $5 trillion debt. With this kind of huge debt we cannot afford $245 billion more in tax cuts. We ought to be spending that money to get us out of debt—not creating more debt.

Second, plug the savings from scaled-down tax cuts that will lower the reductions in Medicare and Medicaid. Keep our commitment to the current generation of Medicare recipients, and preserve the system for future generations. Also keep the Medicaid safety net in place for our most needy citizens. If we scale back those tax cuts, we can avoid unnecessary cuts in Medicare and Medicaid.

Third, invest in our future; provide adequate funding for education and nutrition programs for our children. It only makes sense that we give the next generation every chance to succeed in today’s demanding economy, an economy far more demanding than when I was a child. We also have to maintain our environmental protection to preserve our natural resources for future generations.

We have to understand, Mr. President, that all of us are in this together, and that each one of us is going to have to cast votes that will be unpopular. It will be unpopular for Democrats or unpopular for Republicans. We have to take steps that may be unpopular at the moment but that are for the good of the future.

We are not going to pass a Gingrich budget. We are not going to pass a Dole budget, or a Daschle budget, or a Clinton budget, or a Leahy budget. But we can think about how to make a better budget for this country. But think of the long-term gains. Think about what we want in the future. Think of our children. My children are going to live most of their lives in the economy in which we are making the most decisions now. Let us think of them and have a policy for our country.

We have been guided by policy through pollsters. Instead, let us be guided by legislation through leadership. It would be a refreshing change in this country. I just ignore the polls of the day.

It seems that we come in here and somebody sneezes or gives a speech, and there is a poll of the hour. There is a poll that says the President is ahead, the Congress is behind; 3 hours later the Congress will be ahead and the President will be behind, and we seem to try to adjust to that. I do not think the American people are impressed by that. I think the American people would be impressed if the polls said what we are doing is what we think is best in moving forward. If we do that, we are going to have the kind of budget we want.

I was 1 of 11 who voted against Reaganomics back in the 1980’s. With the deficits and the huge increase in our national debt built up during that time, we are now spending $1 billion a weekday in interest, $1 billion a weekday, interest on what we did then. I remember the polls were 10 to 1 against my vote. But I think it is like some of the votes on Vietnam at one time; a lot of people wish they could go back and do it over again.

We have to find a way. I voted for the plan of the senior Senator from North Dakota [Mr. CONRAD]. I voted for a lot of things in that plan that are going to be unpopular back in Vermont, but they bring us to a balanced budget.

Let us assume that we all want that balanced budget, and we do. But we also have to invest in our future. We also have to make sure our education opportunities are there for our children. We have to make sure we do those things that create jobs, that allow us to lower the enormous trade deficit.

The enormous trade deficit in this country is hurting us more than our deficit in our Federal budget because it is owed to people outside of this country exclusively, and the more that deficit builds up the more our jobs flee the United States and go to the Pacific basin and go to Europe and go to other parts of the world.

Let us improve our ability to compete with the rest of the world in our education, in our financing, and all these other things so that we create the jobs here and we start exporting far more and the money comes back into this country. That would not only lower our trade deficit but it would, more importantly, put hundreds of thousands, millions of Americans back to work in good, productive jobs. Bring those jobs back into the United States.

Use the productivity and the genius of our Nation but make sure our investment is in keeping that genius and that productivity in education, in health and nutrition.

Mr. President, I think now is the time for us to step back, applaud the good motives of people in both parties and of the President, but let us close the door on the pollsters setting policy. Let us use our own leadership to pass legislation that is good for this country.

Mr. President, I yield the floor.

Mr. COCHRAN addressed the Chair. The PRESIDING OFFICER. If the Senator will suspend just one moment, I failed to read the previous order.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak therein for not to exceed 10 minutes each.

The Chair recognizes the Senator from Mississippi.

CONDITIONAL RECESS OR ADJOURNMENT OF CONGRESS FROM NOVEMBER 20 OR 21 UNTIL NOVEMBER 27 OR 28, 1995

Mr. COCHRAN. Mr. President, at the request of the majority leader and with the understanding that it has been cleared on both sides of the aisle, I send the adjournment resolution to the desk and ask that it be considered. The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 32) providing for a conditional recess or adjournment of the Senate on Monday, November 20,
The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the concurrent resolution be considered and agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 32) was agreed to, as follows:

S. CON. RES. 32

Resolved by the Senate (the House of Representatives concurring), That when the Senate and the House, respectively, to assemble pursuant to section 3 of this resolution, whichever occurs first; and that when the House of Representatives adjourns on the legislative day of Monday, November 20, 1995, or the legislative day of Tuesday, November 21, 1995, it stands adjourned until 12:30 p.m. on Tuesday, November 28, 1995, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first.

SEC. 2. The two houses shall convene at 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first; and that when the House of Representatives adjourns on the legislative day of Monday, November 20, 1995, or the legislative day of Tuesday, November 21, 1995, it stands adjourned until 12:30 p.m. on Tuesday, November 28, 1995, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first.

SEC. 3. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, of the time and place of the assembly and the address in 1994.

Mr. COCHRAN. Mr. President, the resolution provides that the Senate adjourn today until Monday, November 27 or 1 in the absence of a quorum. If they amend or defeat the continuing resolution that the Senate passed last night.

DEFEASE APPROPRIATIONS

Mr. COCHRAN. Mr. President, it is very reassuring to this Senator to see the Congress work out this continuing resolution as it has done over this past weekend providing for the continued funding of the departments of the Government that had not been funded through the passage of regular appropriations bills.

There has been a great deal of confusion over what the issues were and why the continuing resolution was needed. I think everyone in the Senate and certainly those who worked to put together the resolution which was adopted by the Senate fully understand it all, but the American people, who do not have access to the information that is available on a daily basis here, had to be confused by the procedures and what the issues were.

One of the issues that can also be dealt with today is whether or not the bill that has been passed by Congress to fund the Department of Defense for the next fiscal year can be signed by the President so that not only can people who work for the Department of Defense be secure in the knowledge that they are going to be paid under the terms of employment arrangements but contracts, independent contractors, defense contractors, and the rest, but that we will be keeping a commitment to the military so that they can make plans, they can use the funds that are coming to them under the regular fiscal year 1996 appropriations bill in a thoughtful way that does not actually end up costing money.

What worries me is that the President is sending signals that he may veto this bill because he thinks it provides too much money for defense. More than he had requested in his budget submission. I tell you a lot of things have changed in the world since the President submitted his budget to the Congress. For example, we are meeting right now among different factions in the former Yugoslavia an arrangement which the President says may require additional United States forces, activities under our NATO alliance on the part of United States forces, $400 million which is more than he had requested in his budget submission.

One of the provisions in the Defense appropriations bill which our committee approved was a contingency appropriation of $643 million which is made available to the administration, to the Commander in Chief for use by the Department of Defense for contingency operations that had not been anticipated when that budget had been submitted. If the President vetoes this bill, it will require more money than had been anticipated when this budget was submitted.

There are provisions in the Defense appropriations bill which our committee approved that will require more money than had been anticipated when this budget was submitted.

So I am suggesting that this Defense appropriations bill does support that position. There are some in Congress and in the administration who are going to argue that the President should veto the bill because it exceeds his budget request, but there are things that have come to light in terms of threats against the security of our country, particularly the proliferation of weapons of mass destruction and I think that some countries have now of sending such weapons over long distances with new missile technologies that are beginning to develop around the world. These are in countries that are historically not our most serious security threats, but have become so or are capable of becoming so through these emerging technologies and the ability to acquire technologies from countries willing to sell these weapons and sell these new technologies.

So, provided in this Defense appropriations bill are some additional funds that will meet these needs and it seems to me that this is a matter of grave national concern. I hope that the President will sign the bill, not only because it takes the Department of Defense out from under the continuing resolution which we just adopted last night, but because it goes a long way toward meeting the challenge that the President himself laid before the Congress in his last State of the Union Address and the address in 1994.

I hope we can resolve these issues as they develop. There are other bills that are contentious as well. The Senator from Vermont mentioned a couple of them. The distinguished leader mentioned the Labor-HHS appropriations bill, which has not yet been brought to the floor of the Senate because the Democrats have been objecting and in some debate, the motion to proceed to consider the bill. We hope that bill can be passed and the President will sign it as well.

Mr. President, seeing no other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDuell. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

Mr. COVERDuell. Mr. President, I understand we are in a period of morning business with Senators permitted to speak for up to 10 minutes. Is that correct?

The PRESIDING OFFICER. The Senator is correct.
TAX RELIEF FOR THE AMERICAN FAMILY

Mr. COVERDELL. Mr. President, I had the opportunity to listen to the remarks of the distinguished Senator from Vermont. And now that we have established this interim accord and agreement, I believe that in some time in decades we will have a balanced budget in the United States. Now will come the debate of the priorities within that balanced budget, and we saw a precursor in the remarks by the Senator from Vermont.

The Senator makes exception to the tax relief proposal that is in the congressional budget that we will soon give to the President. Both the House and the Senate have approved $245 billion in tax relief for American families and communities and businesses over a 7-year period.

Mr. President, just several weeks ago the President of the United States acknowledged to an audience in Houston, TX, that his 1993 tax increase was the largest in American history, might have been a mistake. In fact, he said it was a mistake. And it was indeed.

What is interesting is the size of that tax increase that the President has now suggested was a mistake was about $250 billion. It is interesting to note that this tax relief that we are talking about is $245 billion. One cannot miss the similarity of the two numbers. In fact, Mr. President, what you and I have to have here is a Congress acknowledging that that tax increase was a mistake and is in the business of refunding it and undoing it and fixing it.

I am at another new here, Mr. President, but I am always amazed by the idea that you hear expressed here that the best way for the resources of America to be managed, in the minds of so many people in Washington, is that everybody gets a wheelchair out and ships everything they have earned up here so that a policy wonk can decide what the priorities are of American families and businesses and communities. I do not think our forefathers had that in mind, Mr. President.

I was just over at the first Senate Chamber a moment ago. I like to walk by there and think about Thomas Jefferson giving his inaugural address there. He did not have in mind that all the fruits of labor are taken from the capital and reconfigured and sent back to the priorities of somebody here.

That is not what they had in mind. In fact, he is very quotable on this subject, almost refers to it as treasurers when the fruits of labor are taken from the person who earned it, removed from them and given to somebody else to pursue another set of priorities.

Mr. President, just 40 years ago—we do not have to go all the way back to Jefferson—just 40 years ago American families, in 1950, were sending 2 cents—2 pennies—out of every dollar they earned to Washington, to defend the Nation, to build the ports, the roads, the basic functions of the Federal Government. Today, that same family sends virtually a quarter of their labor to Washington, and then almost that again to local and State governments. But the health of the address here today is that a quarter of all the earnings of an American family are removed from the family.

We hear about, and heard it all through this debate, about how we have an ever increasing program for the benefit of the American family. And I can tell you, Mr. President, that if you line the American families up and ask them, "Would you rather have the resources themselves to decide how to use the money, or would you rather send the check in to the Federal Government and let them decide how to manage your family," the crescendo in chorus of Americans would be, "We will do it ourselves, Mr. President."

The leader just referred to the gentleman that had 10 children who under this tax relief proposal would have $5,000 more to provide for those children. He is so right when he says, Mr. President, that the American people have waited long, long years for a tax relief.

In general, this tax relief will put $2,000 to $3,000 on the kitchen table of every average American family—$2,000 to $3,000. That is a combination of lower interest rates and an expanding economy that comes from the balanced budget and the tax credits and the tax relief.

Now, after we get through raking the Government through these families, they end up with about $25,000 to $27,000 that is left for them to run the average American family. That is disposable income, money that we have not taken away. That is not very much.

We have marginalized middle America. We have pushed them to the wall. So a proposal that gives $2,000 to $3,000 represents virtually a 10- to 15-percent pay raise and one they get to keep. This money all becomes disposable income. That is a dramatic infusion of resources that will improve that family's ability to care for itself. In the end, Mr. President, it is the family we count on to raise America, not the Government. It is the family we count on to nurture and grow America and work and build a home and heat it and educate their children and care for the older members of the family. It is the family unit that we depend on to build America. That is where the resources need to go.

America will prosper from this because we will make those families stronger, more able to do the very jobs we want them to do for us. That is where America is built, in those average, hard-working families from my State to yours, Mr. President.

This proposal produces so much good. It is the family we count on to raise America, not the Government. It is the family unit that we depend on to build America. That is where the resources need to go.

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America will prosper from this because we will make those families stronger, more able to do the very jobs we want them to do for us. That is where America is built, in those average, hard-working families from my State to yours, Mr. President.

This proposal produces so much good for them. It means we will enter the new century with our families in better condition. We will relieve the burden on them. We will have an expanding economy, and the world is watching us—the world is watching us. You suggested that in your remarks—the dangers of the world. We will be most able to be the superpower we are if we are financially healthy, and these balanced budgets do just that. These balanced budgets mean America will march into the new century, not stumble into the new century.

Mr. President, this Senator, and I know many, many others, like yourself, have waited long, long years for a Congress to seize our financial affairs and do the kinds of things that will make us a strong nation, because in the end, none of us know a family or a person or a business or a community that can do the job it is supposed to do if it becomes financially decrepit, which is the path we are on. You do not know people like that, nor will you ever, and this is true of nations as well, Mr. President. A nation must first be financially healthy, and then it can carry out its duty honorably and appropriately.

Mr. President, I yield the floor, and in that no other Senator is present, I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSING THANKS AND GOOD WISHES TO THE HONORABLE GEORGE M. WHITE

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 33, the concurrent resolution to express thanks and good wishes to the Honorable George M. White on the occasion of his retirement as Architect of the Capitol, submitted earlier today by Senators MOYNIHAN, WARNER, and PELL.

The PRESIDING OFFICER. The clerk will report the resolution. The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 33) expressing the thanks and good wishes of the American people to the Honorable George M. White on the occasion of his retirement as Architect of the Capitol. The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MOYNIHAN. Mr. President, I submit a concurrent resolution expressing the thanks and good wishes of the American people to the Honorable George M. White, FAIA, on the occasion of his retirement as the Architect of the Capitol on November 21, 1995,
after nearly a quarter-century of service to the Nation.

It is not widely known, and as is the case with active men, soon overshadowed by yet larger accomplishments, but within a few short months of his appointment as Architect in January 1971, George Malcolm White did something which had long eluded Nixon and was even beyond the grasp of the second Roosevelt. He reshaped the High Court. With a few strokes of the pen, he changed the shape of the Supreme Court bench from straight to slightly angled toward the ends and back at the middle. Chief Justice Warren Berger assembled the Associate Justices and explained, "When it comes to architecture, by law, the Supreme Court will obey this man." And the Court has been the better for it.

That George White should instantly command such respect as Architect came as no surprise to me; after all, I had recommended him to the President. Since Washington's time and until 1989, the Architect was simply picked by the President and presented to the Congress. No advice and consent involved.

I was domestic counselor to President Nixon when, on May 24, 1970, the word came that the previous Architect, Congressman and former contractor J. George Stewart, had died in office. President Nixon asked me to find him a successor. I suggested that this time we pick someone from the Department of the Treasury. The request was made to Mr. White, who had twice been Architect of the Capitol. And 25 years later, the Capitol has never looked better.

I am aware that the Capitol as we know it is a felicitous accretion of separate elements. Some would reason from that, apparently, that each succeeding generation may add to the building at its pleasure. But the various pieces that now comprise this magnificent composition were all designed by the one and only architect, the Treasury's work by a string of extraordinary minds, both Architects and Presidents.

If the tone of architectural debate has been lowered since the day Jefferson and Latrobe locked horns over whether the Capitol should shadow or be straight to slightly angled toward the ends and back at the middle, Chief Justice Warren Berger assembled the Associate Justices and explained, "When it comes to architecture, by law, the Supreme Court will obey this man." And the Court has been the better for it.

Mr. President, this is a resolution to recognize and commend the Architect of the Capitol, the Honorable George M. White, FAIA, for his outstanding service to the Nation, and to tender to him the thanks and good wishes of the American people on the occasion of his retirement.

Mr. WARNER. Mr. President, I am honored to join my good friend and colleague from New York, Mr. MOYNIHAN, in submitting this resolution recognizing the Honorable George M. White on the occasion of his retirement as Architect of the Capitol.

Since being appointed by President Nixon in 1971, Mr. White has served the Congress and the Nation with the utmost dedication and professionalism. During his 25 years in office, Mr. White presided over the construction and preservation of numerous buildings on the Capitol Grounds. But most importantly, his commitment and expertise have assured that future generations will be able to visit the grounds and enjoy the rich history that is encompassed in the Capitol buildings.

Mr. President, I thank Mr. White for his distinguished service to our Nation and wish him the very best in his future endeavors.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc; that the motions to reconsider be laid upon the table, en bloc; and that any statements appear in the Record in the appropriate place as if read.

Resolved by the Senate (the House of Representatives concurring), That the thanks and good wishes of the American people are hereby tendered to the Honorable George M. White, FAIA, on the occasion of his retirement from the Office of the Architect of the Capitol after nearly a quarter-century of outstanding service to this nation.

Mr. COVERDELL. I suggest the absence of a quorum.

PRESIDING OFFICER. The clerk will call the roll.

The roll was called.
Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I might inquire, what is the order of the day or hour?

The PRESIDING OFFICER. The Senate is in morning business, with Senators authorized to speak therein for up to 10 minutes each.

Mr. BURNS. Mr. President, I would like to speak in morning business, then.

The PRESIDING OFFICER. The Senator is recognized.

IMPROVING THE MANAGEMENT OF THE PUBLIC LANDS

Mr. BURNS. Mr. President, I rise today to address an issue that has been highly controversial in the State of Montana, throughout the West, and that matter. As we speak, there has been a campaign of disinformation aimed at confusing and scaring residents of Montana into believing that we in Congress are about to sell or give away all of the public land managed by the Bureau of Land Management and sell those lands to big corporations and, of course, to the rich. Of course, nothing could be further from the truth.

I want to take this opportunity to clear the air on some misapprehensions about the issue and where we stand on it, or where I stand. First, let me say I do believe we have to make some changes in the management of public lands because of all the conflict and the controversy that surrounds them. The real issue here is letting local citizens have an effective voice in the management of those lands which have such a direct and important bearing on their lives and their livelihood.

I have sponsored S. 103. It was drafted by my good friend, Senator Thomas, of Wyoming. That bill, if passed, will provide the opportunity to transfer public lands now managed by the Bureau of Land Management, a Federal agency, to those States which wish to have them. This has been proposed by State and local governments, among others, for some time.

The States believe that being closer to the land, they are more capable of managing the lands for the public than who, say, from a State that has no large concentration of public lands or even us here in Washington, DC. And that is probably true. I believe it is time to take a serious look at the alternatives and to decide whether it is an option we want to use in some situations.

As I said, I think some changes should be made in this bill before final passage. But, nonetheless, I want to give the States and their citizens an opportunity to make a decision about local control themselves. Through the public hearing process and committee and floor debates and amendments, we can decide if, and how, we use this concept to better serve the public's needs.

We face many problems in the management of public land resources today and all those natural resources found on those lands. We have a host of laws that are over a century old. In many cases they conflict. They are often interpreted differently by agencies responsible for implementing them, so they have different requirements for complying with the law. The result for the average citizen is confusion, conflict, and, of course, frustration.

I just like the Federal regulatory process in general, the public land regulations are, in a sense, a mess. Of course, we have to start this process of reforming them.

We had testimony from the head ranger of the Forest Service. He tells us, just about the time they try to make a decision with regard to natural resources found on those lands—we have a permit procedure on these permitting process. It goes down to the small end of the funnel to where the decision could be made, all at once they are in conflict and therefore no decision is made. Therefore, the inefficiency of running those lands comes through.

To illustrate what I mean, I have made up these charts. The first shows the BLM permitting process. Those would be those permits required by Federal agencies under law now. The red dots are places of conflict which could derail the process and deny access or deny the permittee the use of those lands. Of course, the X's mean where the decision could be made, all at once they are in conflict and therefore no decision is made. Therefore, the inefficiency of running those lands comes through.

I just want to point out, the red dots are Federal agencies that have control over the decisions made on permitting processes. Also, the yellow diamonds are places of conflict which could derail the process and deny access or deny the permittee the use of those lands. Of course, the X's mean that is from grazing to recreation—it has to jump through the hoops.

Whatever it costs, what you want to do is get from here to here and still have money enough to do what you want to do on public lands. Sometimes that gets to be a big race. You start off with the project. You go through the BLM process. It goes through documents and plan conformance. If they say no, it does not do it, so you start through the process. You amend it, there is public comment, there is a protest. If there is protest by anybody with a 32-cent stamp—a letter from anybody in the country can protest that particular permittee—then it has to go through conflict resolution, through an appeal process again, back to the district manager, and that can be appealed up to the Bureau of Land Management.

So, if the appeal is upheld, the project is not OK'd. If the project is not appealed, if everything goes right and they say no, that appeal should not be in here, then we start up here and we start through this process. And then, if they allow a resolution, then we have to go back down through here again. We have to jump on.

Remember, I would remind the Chair, remember, I am talking about the health care situation of a year ago, a proposal by the administration on all the hoops you would have to jump through and all the new agencies it would create in order to take care of just health care in this country under the proposal by the administration? I guess they just love hoops.

For example, you get over it all, walk it all the way through, when you get to here—and remember this all costs a little bit of money along the way—this is the area where you try to work out if you have jumped through all of, or some of, your conflicts. If you get all those done—if you do not get them done you can kill the project here. Here is another stop sign, another hoop—never mind if you go through this—and all this takes time and time is money—before it can be finalized, then something else enters into the project and that is other agencies.

Other agencies now come into play because you have just about done everything required by the agency that really has the responsibility of managing the land, it has pretty much said, OK, so far, so good. Now we have to go to other agencies. For water quality, you have to go through the EPA. There are two different steps to it. The State of Montana does. So does the EPA. There are two different steps to it. It takes time. You have to have a bureaucrat in every one of those stages. Somebody has to push the paper. Somebody has to lick the stamp to get it to go on.

Then you get down here. The permit is approved and you get done here. So far so good. There is also another section, section 401. That is the Clean Water Act. The State has to sign off on it. The State of Montana does. So does the EPA. There are two different steps to it. It takes time. You have to have a bureaucrat in every one of those stages. Somebody has to push the paper. Somebody has to lick the stamp to get it to go on.

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this. Maybe the EIS showed a wetlands. The Corps of Engineers has to check off on it. This process is a little bit longer. They approve the permit. It goes to public comment. Then it can be appealed. If the appeal is successful, that kills it. If not, the process goes on. We do not sit in judgment; we look into consideration in this line right here when you start talking about wetlands.

Say you are successful at that. You want to count the time. In this line right here it is probably quite a lot. The next air quality. You have to take that into consideration. It goes to the EPA, or to the State. It can go to either one. But I would guess, if I was a guessing person—which I am not—it would probably go to both. They get notice. There is a comment period. And there is also an area down here where, if there is a conflict on the air quality—if you get down here and see there is no conflict, we move on. If there is a conflict, we take that back, through the process again. And also here is another area, one more area where the permit could be denied.

Then you have another law called the Endangered Species Act. Some people have said the act is really not working, and it will be, I think, amended and re-authorized this year. So then you have to take your permit and go to the U.S. Fish and Wildlife Service. They are in consultation. Here again is another area for public comment, and a place where a 32-cent stamp comes in that says you can file an appeal, and there is a conflict noted. Then you have to go through that decision process.

The only thing we are trying to do is get from here to here. But it looks like a regular steepcleach.

I am going to have this chart made up smaller and pass it out to my colleagues. I am wondering as we put laws into effect and try to develop some kind of rules and regulations for the protection of the people's property. Sometimes we actually destroy the people's property while we are doing it. Of course, this process is expensive. You hope by the time you start the process up here and by the time you get down here that you have money enough to implement the proposed action.

Mining—the editorial for mining the other day in the Washington Post said, Who is minding the mint? It takes 10 to 15 years. If you are thinking about running out West and starting a mine, you want to be ready because all of this is just for you. In mining it becomes a little more. There are a few more things that you have to talk about. The President stepped up. I congratulate him. But I think you have to look around at the faces of those who have worked all through it. Some of us kind of took some time off and did some things we wanted to do on Friday and Saturday, not being involved in leadership, but that was not something that was afforded to leadership because they had to stay and stay. When you read this commitment to a 7-year balanced budget, even when it gets down to saying, yes, we have to do Medicare for all. We have to do all of us come down for it. And Medicaid, or Medigent they are calling it now, or welfare, all of this is something we make those decisions probably better about the resources and the resource management on those lands.

So the laws and regulations of public land ownership have been developed over the years. We have areas in Montana and Wyoming that gives them an opportunity for land exchanges, and to block it and make it more efficient. The land management agencies complain that most of their resources are dedicated to paperwork and paperwork exercises, and they are stymied with conflicting requirements. We are trying to take some of that out of that, and also to take out some of those areas where there are conflicts caused by nuisance more than they are by substance.

There is a lot of funding and manpower in the United States. I know from just dealing with the State of Montana. When I went to the State of Montana as a young man, I think the BLM probably did not have 50 people that managed all of the BLM land in the last 30 years. They probably did not have 50 people when I first went to Montana managing about 8 million acres. I will stand corrected on that. Now there are over 300 in one sector 350 in another. The taxpayers of America of which they are getting no return for those people working out there. No return unless it is from resource management, and, of course, some of that resource management is held up because of the first chart.

So, Mr. President, that sort of clears the air. There is also another bill that would set up a commission, a commission to take a look at our laws and how they apply to our public lands, how to manage them, and also the resources found on them and to make some recommendations back to Congress. I think both of those pieces of legislation should move.

A LEGISLATIVE BLUEPRINT

Mr. BURNS. Mr. President, I thank you for allowing me to run over my time. I wish to at this time thank the leadership of Congress. I know the last 2 or 3 days have been the most grueling days in trying to iron out some sort of a blueprint on which we can get this country and this Government back in some kind of fiscal order.

Mr. President stepped up. I congratulate him. But I think you have to look around at the faces of those who have worked all through it. Some of us kind of took some time off and did some things we wanted to do on Friday and Saturday, not being involved in leadership, but that was not something that was afforded to leadership because they had to stay and stay. When you read this commitment to a 7-year balanced budget, even when it gets down to saying, yes, we have to do Medicare for all. We have to do all of us come down for it. And Medicaid, or Medigent they are calling it now, or welfare, all of this is something we...
Mr. HARKIN. Mr. President, for several years I had the privilege of chairing the appropriations Subcommittee on Labor, Health, and Human Services, Education, and Related Agencies. This year, the chair is Senator SPECTER from Pennsylvania. We had our bill finished in pretty good time, but now it is being held up and there are various unanimous-consents proposed to try to bring it up. Last week, we hotlined it on this side, and I am informed that the Republicans hotlined it on their side to bring the bill up without the legislative riders and simply pass it on voice vote. No Democrat on this side objected to that. The objection came, as I understand it, from the other side.

I thought perhaps over the weekend and in the spirit of compromise and in the spirit of moving this legislation forward, I might try to propose an unanimous-consent request again.

So, Mr. President, I ask unanimous-consent that the Senate proceed immediately to the consideration of H.R. 2127, the Labor-HHS appropriations bill; that the language on page 21, lines 3 to 10, relating to striker replacement, be stricken; that all other committee amendments be agreed to en bloc; that the bill be read a third time and passed and that the motion to reconsider be laid on the table, with the above occurring without intervening action or debate.

Mr. BURNS. I object.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. There is objection.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I guess I probably expected that there would be objection to my unanimous-consent request.

I wish to make the case again that this bill is ready to come to the floor but for a legislative rider that is on this appropriations bill which deals with striker replacement. It has no business being on an appropriations bill. There are other legislative bills that will be before this body before we adjourn on December 15, or whenever that occurs, that would be more appropriate for that to be attached.

I would also point out that we have voted twice on this issue in the Senate and cloture could not be obtained. Again, I would just for the record repeat for the majority leader, said on this bill on September 29, 1995, he said, ‘‘I agree with the Senator from Pennsylvania,’’ meaning Senator SPECTER, ‘‘and the Senator from Iowa,’’ meaning me, ‘‘that we ought to pass this bill on a voice vote. We cannot get cloture. There were two votes, 54 to 46, party line votes.’’ That was on the striker replacement. ‘‘So my view is we ought to do it, pass it and find out what happens after a veto override.’’

I might also say for the record that I checked with the Senator from Pennsylvania [Mr. SPECTER] before I proposed this unanimous-consent request, and he also concurs that this is the way we ought to do it—bring the bill up without legislative riders, pass it on a voice vote, go to conference with the House, and work on the legislation from there.

So again I wanted to point out that it is really not this side holding up the Labor, HHS bill. We are willing to get it now in 60 seconds, voice vote it through but for the legislative rider that was attached in committee, which, as I have pointed out, is a legislative rider and is not a matter of appropriations whatsoever. If that side is willing to strike that, we can bring up that bill and pass it, as I said, within 60 seconds.

As I said, I hotlined this last week and no Democrats objected to it, and just in case the member has changed his mind I think he agrees with that process also, as he stated on September 29.

So, Mr. President, I wanted to make that point because I feel strongly it is important we move ahead with that bill. It not only appropriates the money for the Department of Labor and for job training programs but also the Department of Health and Human Services to administer the Medicare program for the elderly and for the Administration HCFA. It also appropriates money for the National Institutes of Health and for all of the programs there, for biomedical research, and also the Department of Education, some very important programs and agencies that need to be funded with the appropriations bill. And as I said, there is really no reason why we should not pass it except for the insistence by the other side on this legislative rider attached to it, which, again, I understand the process here.

A lot of times people try to attach legislative riders. Sometimes it is done without too much concern, people support it on both sides; they will support the rider. But this is a legislative rider on a bill. But I think in a case like this, where you have a legislative rider which is so adamantly opposed by at least a majority on this side—and I think maybe even a few on the other side—this is no place for that legislative rider.

Lastly, Mr. President, let me say that I am glad that both sides over the weekend worked out an arrangement, an agreement on the continuing resolution. I think we have also on this side, and which continues to be the noble goal of this Congress.

Mr. President, I yield the floor.
Monopoly. It moves them to the Boardwalk. They did not have to pay any rent either. But for everyone else, especially for the lowest 20 percent, it is “Go to jail!” and “Do not pass ‘go,'” “Go directly to jail,” because that is where they are expected to be kept.

This budget pulls up that ladder of opportunity, that ladder of opportunity that I believe my party, the Democratic Party, has always believed in, in making sure that as you make it to the top, you do not leave it in this country—there is nothing wrong with making it; there is nothing wrong with being rich and there is nothing wrong with being a success; that is the American dream—but we have always believed, and I have always believed as a Democrat, as an American, that one of the prime purposes of Government is to make sure, when you make it to the top and others make it to the top, that we leave that ladder down there for others to climb.

And I choose my words carefully. I say a “ladder.” I did not say an “escalator.” I did not say something that someone could get on and ride to the top. I said ladder, or a ramp of opportunity. The ladder is the structure, but individuals have to exert their own energy to climb it. A ramp is a structure, but those with disabilities have to exert the energy to go up that ramp.

And this budget does it takes away the ramp and it takes away the ladder. When you cut Head Start, when you cut education as deeply as the budget does, when you cut summer youth training, job training, when you cut education support, student loans—yes, even when you cut Medicare as much as this does and push it all to the upper income, you take away that ladder of opportunity.

So, that is why I will fight as hard as I can over the next couple of weeks to make sure that as we reach a compromise—and I understand it has to be a compromise—that we—perhaps I will continue to invoke the words of Ronald Reagan would not leave anyone behind, and, no, those seven key programs ought to be left untouched, because those programs really do leave that ladder of opportunity down there. And that ought to be the sentiment that guides the Senate over the next couple weeks.

Mr. President, I yield the floor.

Mr. Dole addressed the Chair.

The PRESIDING OFFICER (Mr. Gregg). The majority leader.

TRIBUTE TO SENATOR NANCY LANDON KASSEBAUM

Mr. Dole. Mr. President, during my years in the U.S. Senate, it has been my privilege to serve alongside two remarkable colleagues from Kansas.

The first was Jim Pearson, who was a Senator of great common sense and great integrity who was widely respected by Members on both sides of the aisle.


And there is no doubt that she would have received another landslide next November.

This morning in Topeka, however, Senator Kassebaum announced that she would retire from the Senate at the end of next year.

Mr. President, yes, this announcement was not unexpected, but still it comes as a blow to Kansans, and to all of us here in the Senate who have grown to count on Senator Kassebaum’s leadership, wisdom, and friendship.

I will have more to say about Senator Kassebaum in the coming weeks and months, but I did want to take just a minute today to pay tribute to our colleague and friend.

The Senate has debated many historic and important issues in the past 17 years, and Senator Kassebaum has played a key role in many of them.

As a member of the Labor and Human Resources Committee—a committee she now chairs—Senator Kassebaum has tirelessly worked for legislation to assist America’s working men and women.

Kansans have a tradition for helping neighbors in need, and Senator Kassebaum continued that tradition here in the Senate, as she devoted time and energy to improving programs that help the less fortunate.

Senator Kassebaum also emerged over the years as a strong force in shaping America’s foreign policy. One example of her leadership in the arena was her instrumental role in shaping the policy that helped move South Africa to a new era of equality.

Senator Kassebaum’s father, the great Alf Landon, once said, “There are some smart people in Washington. There are many of them in Kansas.”

Senator Kassebaum has succeeded because she has always kept those words in mind, and she has always understood that Kansans and Americans did not need the Federal Government to run their lives and make decisions for them.

Mr. President, Nancy Kassebaum’s record of intelligence, integrity, and independence has ensured that she will always be remembered as one of the true giants of political history.

And I know I speak for all Members of the Senate in saying that we are very proud to call her our colleague and our friend.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on November 20, 1995, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution (H.J. Res. 123) making further continuing appropriations for the fiscal year 1996, and for other purposes.

Under the authority of the order of the Senate on January 4, 1995, the enrolled joint resolution was signed on November 20, 1995, during the recess of the Senate by the President pro tempore (Mr. Thurmond).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:


SUBMISSION OF CONCURRERNT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:
S. Con. Res. 32. A concurrent resolution providing for a conditional recess or adjournment of the Senate on Monday, November 20, 1995, until Monday, November 27, 1995, and a conditional adjournment of the House on the legislative day of Monday, November 20, 1995, or Tuesday, November 21, 1995, until Tuesday, November 28, 1995, considered and agreed to.

By Mr. MOYNIHAN (for himself, Mr. WARNER, and Mr. PELL):
S. Con. Res. 33. A concurrent expressing the thanks and good wishes of the American people to the Honorable George M. White on the occasion of his retirement as the Architect of the Capitol; considered and agreed to.

ADDITIONAL COSPONSORS
S. 837

At the request of Mr. WARNER, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 851

At the request of Mr. JOHNSTON, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 851, a bill to amend the Federal Water Pollution Control Act to reform
the wetlands regulatory program, and for other purposes.

S. 1346

At the request of Mr. Chafee, the names of the Senator from Vermont [Mr. Leahy] and the Senator from Maine [Mr. Cohen] were added as co-sponsors of S. 1346, a bill to reauthorize and extend authority of the Recreational Trails Program, the Coastal and Estuarine Protection Program, the Wetlands Restoration Program, the Wetlands Reserve Program, the National Estuarine Research Reserve System, and the National Estuarine Reserve Program.

S. 1344

At the request of Mr. Hefflin, the name of the Senator from Mississippi [Mr. Lott] was added as a co-sponsor of S. 1344, a bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes.

S. 1360

At the request of Mr. McCain, his name was added as a co-sponsor of S. 1360, a bill to ensure personal privacy with respect to medical records and health care-related information, and for other purposes.

SENATE CONCURRENT RESOLUTION 32—PROVIDING FOR A CONDITIONAL RECESS OR ADJOURNMENT

Mr. Dole submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 32

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Monday, November 20, 1995, pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until a time to be determined by the Majority Leader on Monday, November 27, 1995, or until one hour after the House has voted on H.J. Res. 122, unless the House agrees to the Senate amendment.

SEC. 2. The two houses shall convene at 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first; and that when the House of Representatives adjourns on the legislative day of Monday, November 20, 1995, or the legislative day of Tuesday, November 21, 1995, it stand adjourned until 12:30 p.m. on Tuesday, November 28, 1995, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first.

SEC. 3. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE CONCURRENT RESOLUTION 33—RELATIVE TO THE RETIREMENT OF THE ARCHITECT OF THE CAPITOL

Mr. Moynihan (for himself, Mr. Warner, and Mr. Pell) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 33

Whereas at its inception, the Capitol of the United States of America was blessed to rise under the hand of some of this Nation’s greatest architects, William Thornton, Benjamin Henry Latrobe, and Charles Bulfinch;

Whereas prior to the Honorable George Malcolm White, F.A.I.A., being appointed by President Nixon on January 27, 1971, it had been 106 years since a professional architect had been named to the post of Architect of the Capitol;

Whereas Mr. White has served the Congress through an unprecedented period of growth and modernization, utilizing to advantage his professional expertise in architecture, engineering, law, and business;

Whereas Mr. White has prepared the Capitol Complex for the next century by developing the “Master Plan for the Future Development of the Capitol Grounds and Related Areas”;

Whereas Mr. White has added new buildings to the Capitol grounds as authorized by Congress, including the Thurgood Marshall Federal Judiciary Building, the Philip A. Hart Senate Office Building, the Library of Congress James Madison Memorial Building, and through acquisition and renovation, the Thomas P. O’Neill and Gerald R. Ford House Office Buildings, the Websters Hall Senate Page Dormitory, and the Capitol Police Headquarters Building;

Whereas Mr. White has preserved for future generations the existing historic fabric of the Capitol Complex by faithfully restoring the Old Senate Chamber, the Old Supreme Court Chamber, National Statuary Hall, the Brunini corridors, the Rotunda canopy, the Rotunda dome, the West End corridors, the Rotunda dome, the West End corridors, the Forma and the Terrace of the Capitol, the House Monumental Stairs, the Library of Congress Thomas Jefferson, and the Library of Congress James Madison Memorial Building, and the Statue of Freedom atop the Capitol Dome;

Whereas Mr. White has greatly contributed to the preservation and enhancement of the design of the District of Columbia through his place on the District of Columbia Zoning Commission, the Commission of Fine Arts, the Pennsylvania Avenue Development Corporation, and various civic organizations and commissions;

Whereas upon Mr. White’s retirement of November 29, 1995, he leaves a legacy of tremendous accomplishment, having made the Capitol his life’s work and brought to this century the erudition and polymathy’s capacity of our first Architects: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring). That the thanks and appreciation of this Senate be extended to Mr. White for his outstanding service to this nation.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. Craig. Mr. President, for the information of the Senate and the public, the Subcommittee on Forests and Public Land Management has scheduled an oversight hearing on the administration’s implementation of section 2001 of the Funding Rescissions Act of 1995.

The hearing will be held on Wednesday, November 29, 1995, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC. The hearing will be conducted jointly with the forest salvage task group of the House Resources Committee.

The only witnesses will be the administration and the General Accounting Office. Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, contact Mark Rey at (202) 224-6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. Murkowski. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to receive testimony regarding S. 1271, the Nuclear Waste Policy Act of 1995.

The hearing will be held on Thursday, December 14, 1995, it will begin at 9:30 a.m., and will take place in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker or Betty Nevitt at (202) 224-0765.

ADDITIONAL STATEMENTS

THE BALANCED BUDGET ACT OF 1995

Mr. McCain. Mr. President, last week I had submitted for the Record a statement regarding the Balanced Budget Act of 1995 that appears to not have been printed. Therefore, Mr. President, I would ask that my statement appear in the Record today.

Mr. President, I want to commend the hard work of all my colleagues in producing this legislation. Although there are parts that do concern me, in general I strongly support this bill and the goal of balancing the budget in 7 years.

As some of the Senate Commerce Committee members who drafted title IV of the Senate bill and served as a conferees for this section of this legislation, I want to clarify for the record what I believe is intended by this bill regarding spectrum auctions.

Under the bill, the Federal Communications Commission (FCC) is mandated to identify and make available for public auction 100 MHz of spectrum. I believe that auctioning this and other spectrum is the fairest and most equitable manner in which to allocate spectrum.

I would hope that the Commission would understand this fact and become spectrum auction proponents. The auctioning of spectrum in an orderly manner—so that the public interest is served by maximizing revenue to the Treasury and ensuring that services that use the spectrum continue in a manner that benefits the public—should be a goal of all FCC proceedings regarding the spectrum.

The bill before the Senate contains several criteria that the FCC should use in selecting which blocks of spectrum to auction. I want to emphasize

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for the record that the inclusion of any particular criteria for the FCC to consider should not be viewed as limiting the Commission’s authority to make a determination under its overall public interest standard of what existing spectrum users may need to be continued, of or from considering the impact on any existing users of having to move to other frequencies or from requiring, as a condition of any move, that the costs of relocation be paid by new users.

More importantly, I urge the Commission to examine all the spectrum referenced in this act and make determinations as to its allocation that are fair, equitable, and that do not unduly hurt or burden any one group or industry.

Mr. President, I hope this clarification helps guide the FCC as it moves toward auctions as mandated by this bill. I yield the floor.

AN OUNCE OF PREVENTION AS COSTLY AS THE CURE

Mr. SIMON. Mr. President, Henry Aaron, a respected economist at the Brookings Institution, and Prof. William B. Schwartz who teaches medicine at the University of Southern California, had an op-ed piece in the Washington Post commenting about what is driving up health care costs.

It is a solid piece of information when too often we are looking for superficial answers that may temporarily help the budget situation.

I have said for many years that the Federal Government has to look to additional revenue sources if we are to provide the fundamental services that our people want and deserve.

Nothing that I have seen has changed my mind on that.

Our inattention to our revenue problems has caused an escalation of the deficit in this country; and it has caused diversion of huge amounts of money for interest, in addition to discouraging industrial investment.

The Henry Aaron-William Schwartz article talks about realities in the medical field, realities we seem reluctant to face but I hope will.

I ask that their op-ed piece be printed in the RECORD.

The material follows:

[FROM THE WASHINGTON POST, NOV. 16, 1995]

AN OUNCE OF PREVENTION AS COSTLY AS THE CURE

(By Henry J. Aaron and William B. Schwartz)

On the op-ed page of Oct. 25, Joseph Califano and Robert Samuelson independently comment on solutions to the excessive level and growth of health care spending. Califano invokes prevention as the long-term solution. Samuelson points to managed care, although he prudently warns of possible abuse by profit-hungry managers. Both miss the simple truth—that any sustained slowdown in the growth of health care spending will require health care rationing.

Consistent with the belief, the principal causes of rising health care spending are not waste, fraud and abuse, an aging population or increasingly unhealthy behavior. Waste, fraud and abuse can account for at most for about one-tenth of the increase in spending over the past two decades. Aging has been an even smaller factor, and its importance will grow. And people have been eating more healthfully, exercising more and smoking less than in the past.

The primary cause driving up health care spending is the proliferation of new health care technology. Scientific advance accounts for at least half and probably more of the 120 percent increase in real per capita health care spending that has occurred since 1975. There is no indication that the pace of scientific advance is slowing or will slow. It may be accelerating. And a aging population aging will not stop for decades.

It would be nice if investing in preventive care could substantially slow the growth of health spending. Alas, it cannot, for two related reasons. First, with few exceptions (vaccinations stand out), most preventive health measures must be applied to large populations to prevent a relatively small amount of illness.

Take screening for colon cancer, which kills about 50,000 people a year but at a treatment cost of about $1 billion. Deaths from colon cancer could be cut by 20,000 annually if all people age 50 and over were tested annually and found to be normal and all those who tested positive underwent a colonoscopy. That sounds like a strong case for preventive colonoscopies. And indeed it is—but on many grounds a fad. But the net added cost of the preventive tests would run $4 billion to $6 billion annually, depending on how aggressively patients with benign polyps were treated and hospitalized. This example illustrates a more general point: Some preventive health measures are good for health, but they seldom cut costs.

The other kind of substance abuse, Califano would like to reduce it. So would most of the rest of us. But measures to reduce substance abuse are costly and have few short-run effects on behavior. They may eventually induce less abuse or better diet, but these changes do not come quickly.

Meanwhile, the second reason prevention does not save money comes into play. It may be possible, at a price, to reduce particular forms of illness. But all of us who survive this year’s other health shocks become sick next year. Smokers spared coronaries and alcoholics spared cirrhosis will eventually get sick and consume health care. The ghoulish fact is that we may spend $100,000 to save a life from a tobacco-induced coronary will eventually succumb to costly debility from Alzheimer’s.

Treatment for degenerative diseases such as Alzheimer’s, arthritis and miscellaneous organ failures will eat up much of the savings achieved through preventive measures and could end up costing more than any direct savings achieved through prevention campaigns. The offset will not be exact. Some money may be saved. Stopping smoking does cut health care costs but only modestly. In other cases, some net costs may be incurred. But the idea that prevention will materially divert the health cost juggernaut is
delusional.

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delusional.

Samuelson is right to remark on the importance of the managed care revolution. He is properly worried about the effects of an infusion of profit-oriented managed care plans on the quality of care. But he is too credulous about the achievements of managed care in slowing the growth of health care spending.

Yes, health care spending slowed in California during the 1980s as managed care plans entered the market. But spending slowed as California fell from 22nd in the nation in 1979-80 to 33rd in 1991-92. California experienced a protracted recession during the 1980s. Recessions produce unemployment and reduce incomes. Both cause growth of spending of all kinds to slow. Samuelson is right that some companies have stopped growth of health insurance premiums by shifting to managed care. But that slowdown could come from reductions in benefits, increased cost-sharing to other payers through negotiated discounts, as well as from genuine increases in efficiency. Despite the vaunted achievements of managed care, inflation-adjusted health care spending grew 5 percent in the past year, the same as the average for the past four decades. A sustained slowdown in health care spending can be achieved only in one way: by decreasing some beneficial services to some people. People have been reluctant to repossess such power in government bureaucrats, who have nothing personal to gain from the decisions they make. One wonders whether they will be more willing to cede such sensitive authority to well-paid managed care executives who will make larger profits every time they take away some procedure.

Sustained slowdown in health care spending can be achieved only in one way: by decreasing some beneficial services to some people. People have been reluctant to repossess such power in government bureaucrats, who have nothing personal to gain from the decisions they make. One wonders whether they will be more willing to cede such sensitive authority to well-paid managed care executives who will make larger profits every time they take away some procedure. THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, more than 3 years ago I began these daily reports to the Senate to make a matter of record the exact Federal debt as of close of business the previous day.

As of the close of business Monday, November 17, the Federal debt stood at exactly $4,989,662,795,523.25. On a per capita basis, every man, woman, and child in America owes $18,940.85 as his or her share of the Federal debt.

It is important to recall, Mr. President, that the Senate this year missed an opportunity to implement a balanced budget amendment to the U.S. Constitution. Regrettably, the Senate failed by one vote in that first attempt to bring the Federal debt under control.

There will be another opportunity in the months ahead to approve such a constitutional amendment.

ADDRESSING THE CONCERNS OF ATOMIC VETERANS

Mr. WELLSTONE. Mr. President, last month, President Clinton at a White House ceremony accepted the final report of the Advisory Committee on Human Radiation Experiments. Following Energy Secretary Hazel O’Leary’s announcement early in 1994 about secret human radiation experiments carried out or sponsored by the
U.S. Government, President Clinton created the advisory committee to advise the Human Radiation Interagency Working Group on the ethical and scientific issues related to such experiments. The Human Radiation Interagency Working Group is a Cabinet-level body that includes the Secretary of Veterans Affairs Jesse Brown.

I believe the advisory committee should be commended for dedicating considerable attention to atomic veterans in its final report and including two recommendations concerning compensation for them. On several occasions, I strongly advocated that the advisory committee include atomic veterans in their inquiry. In February, for example, I issued a statement urging the panel to include atomic veterans in their final report and recommend specific options for the Government to provide recourse to atomic veterans seeking compensation. At that time, I stressed:

By standard atomic veterans are perhaps America's most neglected group of veterans, and with the work of the advisory committee we now have an excellent opportunity to finally answer some of these veterans' concerns and address some of the injustices they have suffered.

In March, I had the honor of being the only Senator to publicly testify before the advisory committee—dedicating my testimony to the Forgotten 216th. I worked not only because many of these atomic veterans are Minnesota but also because they have done so much to educate me about the plight of atomic veterans and their brave and continuing fight for justice.

Mr. President, on January 30, 1995, I have had numerous meetings and contacts with the men of the Forgotten 216th and their families. Since their problems typify those of other atomic veterans nationwide, permit me to tell you of the U.S. Army's 216th Chemical Service Company and about why they now term themselves the Forgotten 216th.

The Forgotten 216th participated in a series of atmospheric nuclear tests in Nevada in 1952 called Operation Tumbler Snapper. They believed their Government's assurances that it would protect them against any harm, but now are convinced they were used as guinea pigs with no concern shown for their safety. Many were sent to measure fallout at or near ground zero immediately after a nuclear bomb blast, encountering radiation so high that their geiger counters literally went off the scale while they inhaled and ingested radioactive particles. They were given little or no protection. Sometimes even lacking film badges to measure their exposure to radiation and were not informed of the dangers they faced. Moreover, they were sworn to secrecy about their participation in nuclear tests, sometimes denied access to their health records, and provided with no followup health care or even medical monitoring. Many members of the 216th have already died, often of cancer. Is it any wonder these men now refer to themselves as the Forgotten 216th?

Given this horrendous situation, I was delighted to see that the advisory committee report included a recommendation that the Forgotten 216th and other atomic veterans may never again be forgotten by the Government that placed them in harm's way. The report urged the Human Radiation Interagency Working Group to work in conjunction with Congress to promptly address the concerns expressed by atomic veterans. Among these concerns cited by the committee are several that I have long believed needed to be addressed, including:

- The list of presumptive diseases for which atomic vets automatically receive VA compensation is incomplete and inadequate.
- The standard of proof for those atomic vets without a presumptive disease cannot be met given the incompleteness of the exposure records retained by the Government, inappropriate.
- Time and money spent on contractors and consultants in administering the program, particularly the dose reconstructions required for most atomic vets filing claims with the VA, would be better spent on directly aiding vets and their survivors.

With respect to the last two concerns, it is important to note that the advisory committee found that "the Government did not create or maintain adequate records regarding the exposure of all participants [and] the identity and test locale of all participants." This finding justifiably calls into question the ability of the Government to come up with accurate dose reconstructions on which the approval of claims for VA compensation of many atomic veterans depend.

In the aftermath of the President's acceptance of the report, Jesse Brown announced the establishment of an interagency working group consisting of representatives of the VA, HHS, and DOD in response to the advisory committee's recommendations concerning compensation for atomic veterans. The interagency working group is expected to submit its report to the Human Radiation Interagency Working Group in the spring of 1996.

Both advisory committee recommendations on atomic veterans urge the Human Radiation Interagency Working Group to work in tandem with the Congress to implement them and, therefore, I have requested that my distinguished colleague Chairman Simpson hold hearings soon after the interagency working group established by Secretary Brown issues its report in the spring. The purpose of the hearings would be to permit the Committee on Veterans' Affairs to determine what legislative action may need to be taken.

It is worth noting that the cover of every copy of the Atomic Veterans Newsletter, the official publication of the National Association of Atomic Veterans, contains the simple but eloquent statement: "The atomic veteran seeks no special favor * * * simply justice." Their fight for justice has been long, hard, and frustrating, but these patriotic and deserving veterans have persevered.

Mr. President, I urge my colleagues from both sides of the aisle to join me in seeking to ensure that atomic veterans finally win their struggle for justice.

ORDERS FOR MONDAY, NOVEMBER 27, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 1 p.m., on Monday, November 27, that following the prayer, the Journal of proceedings be deemed approved to date, no proceedings come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and then there be a period for morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I also ask unanimous consent that the Senate begin consideration of the HUD-VA conference report at 3 p.m., on Monday, November 27.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, the Senate will begin consideration of the conference report accompanying the HUD-VA appropriations bill at 3 p.m. The Senate may also be asked to take further action with respect to the foreign operations appropriations bill. However, any votes ordered will be postponed to occur at 2:15 p.m., Tuesday, November 28, 1995.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, it is my understanding the House will not act on the adjournment resolution until about 5 o'clock. I do not know of any other Senators seeking recognition, so I now move we stand in recess subject to the call of the Chair.

The motion was agreed to; and at 12:09 p.m., the Senate recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the President Pro Tempore (Mr. DeWine).

AUTHORITY FOR COMMITTEES TO REPORT

Mr. GRAMS. Mr. President, I ask unanimous consent, notwithstanding...
the adjournment of the Senate, that on Tuesday, November 21, committees have from 10 a.m. to 3 p.m. to file any legislative or executive reported business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 1 P.M., MONDAY, NOVEMBER 27, 1995

Mr. GRAMS. Mr. President, if there be no further business to come before the Senate, I ask unanimous consent that the Senate now stand in adjournment under the provisions of Senate Concurrent Resolution 32.

There being no objection, the Senate, at 3 p.m., adjourned until Monday, November 27, 1995, at 1 p.m.
THE SENIOR CITIZEN’S RIGHT TO WORK ACT

HON. J. DENNIS HASTERT
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Monday, November 20, 1995

Mr. HASTERT. Mr. Speaker, I rise today to support the introduction of the Senior Citizen’s Right to Work Act of 1995. This bill provides long-awaited relief for America’s working seniors. By passing this bill, Congress fulfills the pledge we made just 3 short weeks ago to lift the Social Security earnings limit by the end of 1995.

That pledge was:

Whereas the House of Representatives has overwhelmingly passed legislation to raise the exempt amount under the Social Security earnings limit three times, in 1989, 1992, and 1995;

Whereas such legislation is a key provision of the Contract With America;

Whereas the President in his 1992 campaign document, “Putting People First” pledged to lift the Social Security earnings limit; and

Whereas the Social Security earnings limit is a depression-era relic that unfairly punishes working seniors: Now, Therefore, be it Resolved by the House of Representatives (the Senate concurring), That it is the intent of Congress that legislation will be passed before the end of 1995 to raise the Social Security earnings limit for working seniors aged 65 through 69 in a manner which will ensure the financial integrity of the Social Security Trust Funds and will be consistent with the goal of achieving a balanced budget in seven years.

The unfair earnings limit penalizes low- and middle-income seniors who need to work. The earnings limit takes away $1 of every $3 a senior earns over the limit. In 1995, this limit is a mere $11,280. This bill will lift the limit to $14,000 in 1996 and up to $30,000 by 2002. If current law remains in effect, the $14,000 threshold won’t be hit until 2002.

Working seniors don’t have pension income or stocks and bonds tucked away. They never had the chance to save and invest. And yet, they get hit with a marginal tax rate of 56 percent when they exceed the limit—a nearly twice the rate millionaires pay. But those seniors who do live off investment income are not impacted by the earnings limit.

Folks, this is just not right. America’s working seniors should not be punished just because they never had money to tuck away and must now keep working to make ends meet. It is time to remove the penalty on seniors who need to keep working.

I want to commend my friend, Representative Bunger, who has done yeoman’s work to bring this issue to the fore. Even though we know working seniors will pay more into our economy and more than offset the costs associated with lifting the earnings limit, the Congressional Budget Office will not allow this “dynamic” method of scoring. Thus, Mr. Bunger has put together a proposal that meets the CBO’s budget rules.

The House Ways and Means Committee will be considering this legislation tomorrow. And soon after, the Congress will consider this bill on the floor. We promised working seniors that we would provide relief before the end of the year, and we’re going to keep that promise. Working seniors across America can trust Congress to deliver relief when they need it most. I urge my colleagues to cosponsor this bill today.

PERSONAL EXPLANATION

HON. XAVIER BECERRA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, November 20, 1995

Mr. BECERRA. Mr. Speaker, I was unavoidably detained during rollcall vote No. 810, the vote on the rule to H.R. 2491, the Balanced Budget Act. I would like the record to reflect that I would have voted “no”.

THE NATIONAL PARKS AND NATIONAL WILDLIFE REFUGE SYSTEMS FREEDOM ACT OF 1995

HON. DON YOUNG
OF ALASKA
IN THE HOUSE OF REPRESENTATIVES
Monday, November 20, 1995

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce today, along with a number of my distinguished colleagues, including Jim Hansen, Jim Saxton, Ken Calvert, and J.D. Hayworth, the National Parks and National Wildlife Refuge Systems Freedom Act of 1995.

The purpose of this legislation is to ensure that our national parks and wildlife refuges are not closed in the future because of a lack of Federal funding to operate them.

During this past weekend, we witnessed the sad spectacle of the Department of the Interior closing our Nation’s 369 parks and 504 national wildlife refuges.

These lands, which comprise about 181 million acres, were acquired through the hard work of millions of American taxpayers, who paid for them with entrance fees, excise taxes, duck stamps, and income tax payments.

It is terribly wrong to close these facilities and to deny the American people the right to enjoy their beauty, splendor, and various recreational opportunities.

In the State of Arizona, Governor Fife Symington offered to operate and keep the Grand Canyon open by using the State National Guard personnel. Regrettably, the Governor’s request was denied because the Department of the Interior currently lacks the legal authority to allow the States to manage these lands.

The National Parks and National Wildlife Refuge Systems Freedom Act will require the Secretary of the Interior to accept the services of State employees to operate any parks or refuge units when the Federal Government is in a period of a budgetary shutdown.

Under the terms of my bill, a State would not be forced to operate any park or refuge within its geographic boundaries, but would simply be given the opportunity to offer their services, like Governor Symington.

Furthermore, the term “government budgetary shutdown” has been narrowly defined to only cover those circumstances when there is a failure to enact a timely appropriations bill for the Department of the Interior and there is a lack of temporary or continuing appropriation funds.

Mr. Speaker, our national parks and wildlife refuge systems must never be closed again in the future. This legislation will ensure that if there is ever another budgetary meltdown, the American people will not be denied the chance to visit the Kenai National Wildlife Refuge, the Edwin B. Forsythe National Wildlife Refuge, Yellowstone National Park, or the Washington Monument.

I urge my colleagues to join with me in support of the National Parks and National Wildlife Refuge Systems Freedom Act of 1995.

THE DAMAGE TO FEDERAL WORKERS

HON. CONSTANCE A. MORELLA
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Monday, November 20, 1995

Mrs. MORELLA. Mr. Speaker, there have been articles written and statements made suggesting that since furloughed Federal workers are being paid that somehow they came out ahead in this shutdown ordeal.

I find this kind of rhetoric highly offensive and an affront to the hundreds of thousands of hard-working, dedicated Federal workers who were furloughed through no fault of their own.

How do individuals come out ahead after being demoralized with the label of “non-essential”? How do individuals come out ahead after their lives were put on hold because of political posturing? How do individuals come out after they have witnessed actions that could have jeopardized their jobs and their future?

Mr. Speaker, the truth is that they cannot. No Federal worker, and I want to say this again, no Federal worker in my district or anywhere in this country said, “Please, please furlough me.” In fact, I know that a number of furloughed Federal workers continued to work at home, realizing the importance of their work and their commitment to this country, even if others had forgotten.

Mr. Speaker, I hope we learned a valuable lesson from this experience, and I hope that we begin serious consideration of a long-term plan to prevent this from ever happening again. Then, and only then, can we say America and Federal workers came out ahead.
SECRETARY HAZEL O'LEYAR, DEPARTMENT OF ENERGY

HON. MIKE WARD
OF KENTUCKY
IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. WARD. Mr. Speaker, I rise today to commend Secretary Hazel O'Leary and the job she has performed at the Department of Energy. Under her leadership, the Department has undergone a major organizational transformation that has already saved money and enhanced Government performance.

One step toward these goals was taken by developing a first-ever strategic plan, which created a framework and shared vision for the Department's missions in national security, energy resources, weapons site cleanup, and science and technology.

A major overhaul was initiated of the Department's contracting practices, which will yield billions of dollars in savings through increased competition and performance-based management.

Under Secretary O'Leary's leadership, the first independent post-cold war review of the Department's 10 national laboratories was commissioned and now the Department is aggressively implementing recommendations that will reduce the costs and help sustain their long record of scientific discovery and technological innovation. This action will help to ensure long-term economic growth.

These actions and others are helping Secretary O'Leary and the Department of Energy to meet the goal of reducing the Department's budget by $14.1 billion over 5 years. This is just the kind of leadership that the Department of Energy, as well as all of Government needs to ensure efficient and productive expenditure of our tax dollars.

TRIBUTE TO JESSE A. BREWER

HON. JULIAN C. DIXON
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. DIXON. Mr. Speaker, I rise today to pay tribute to my friend Jesse A. Brewer, a trailblazer who valiantly served his country as a decorated military officer, police officer with the Chicago and Los Angeles Police Departments, and as a member of the Los Angeles Police Commission. Commissioner Brewer died on November 19, 1995.

A native of Dallas, TX, Jess Brewer was born on October 21, 1921. He began his undergraduate work at Tuskegee Institute, where he met his wife, the former Odessa Amond, also a student at the university. Brewer was required to temporarily discontinue his education when he was called to serve in the U.S. Army during World War II. In 1943 Jess attended Officer Candidate School at Fort Benning, GA, and was commissioned as a 2d lieutenant upon graduation. He would later complete his undergraduate work at Shaw University. His distinguished military career spanned 33 years of active and reserve duty. During World War II he attained the rank of army captain. After the war he became a reserve officer, retiring in January 1976 at the rank of colonel. Brewer's decorations include the Legion of Merit, the Bronze Star, the Purple Heart, the Combat Infantry badge and two Campaign Ribbons. In 1977 Jess Brewer earned a master's degree in public administration from the University of Southern California.

Brewer began his career as a police officer with the Chicago Police Department in 1947. Brewer left the department in 1952, discouraged by discriminatory hiring and promotion practices. He joined the Los Angeles Police Department in 1952 after applying to the LAPD twice. His first application was rejected on a technicality, an event Brewer attributes to racism. Brewer acquired a great deal of experience through his assignments at the LAPD, which included patrol, vice, traffic, homicide, and burglary. Brewer was promoted to sergeant in 1958, but could only act as a undercover investigator at that time because department rules did not permit African-Americans to supervise white. Later, as barriers to supervisory provisions were removed, Brewer held several command assignments at the rank of Commander.

In 1981 he was promoted to deputy chief and served as commanding officer for the area encompassing south-central Los Angeles from 1981 to 1987. As deputy chief, Brewer praised for pioneering law enforcement innovations such as new officer deployments, which placed more officers in minority neighborhoods as the gang crisis intensified. November 19, 1987, he was promoted to the rank of assistant chief by then-Chief Daryl Gates, where he directed the activities of the Office of Administrative Services and was responsible for all support functions of the LAPD. Chief Brewer's accomplishments were recognized throughout the country, as demonstrated by his selection as technical adviser to the Emmy Award-winning television series “Hill Street Blues”–a series widely praised for its realism and technical accuracy. He also was widely regarded as an ideal candidate to succeed Chief Daryl Gates as the LAPD's top officer. Assistant Chief Brewer retired in 1991 as the highest ranking African-American in the history of the department.

Four decades as a LAPD officer gave Brewer a firsthand look at the problems of the department, whose name over the years had become synonymous with the harsh treatment of Los Angeles residents. It was this intimate knowledge of the LAPD that led to his July 1991 appointment to the Los Angeles Police Commission, where he was praised for bringing stability and credibility to the commission.

In August 1991 he was elected vice-president of the commission and in 1993 was elected President of the Commission. While a commissioner, Brewer served on the Budget, Deployment, and Riot Investigation Subcommittees and chaired the intelligence subcommittee.

Commissioner Brewer's wealth of experience and compassion also prompted the Christopher Commission to request his testimony during that commission's investigation of brutality and racism at the LAPD. Although it was Gates who promoted Brewer to the rank of assistant chief, that fact did not prevent Commissioner Brewer from giving a frank assessment of the problems within the LAPD. In testimony before the Christopher Commission, Brewer revealed the excessive force, rudeness, and disrespect that had been "out of control" for years. He ultimately recommended that Chief Gates resign, and strongly pushed for the appointment of Willie L. Williams, Los Angeles' first African-American police chief. Commissioner Brewer left the Los Angeles Police Commission in 1993.

Throughout his career, Brewer served as a board member of several prestigious public and private organizations, including the President Commission on Organized Crime and the National Advisory Committee Task Force on Disorder and Terrorism. He also served as a Governor-appointed member of the board of directors of the California Museum of Science and Industry, and the Los Angeles Coliseum Commission. Commissioner Brewer's many honors include the 1988 NAACP Judge Thomas L. Griffin Legal Award and the Ricky Bell Humanitarian Award. In 1990 he was an honoree at the National Bee at Black Military Officers dinner and was a lifetime member of the NAACP.

Mr. Speaker, Los Angeles mourns the loss of a great public servant. His commitment, dedication, and gentlemanly demeanor will be sorely missed by us all. I ask you to join me, Mr. Speaker, in paying tribute to a fine officer, a true gentleman, and a good friend, and in expressing our heartfelt condolences to his wife Odessa, his sons, Jesse, Jonathan, and Kenneth, and their families.

CORPORATE AMERICA BENEFITS FROM AFFIRMATIVE ACTION

HON. LOUIS STOKES
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. STOKES. Mr. Speaker, on October 26, 1995, the Executive Leadership Council and Foundation held its seventh annual recognition dinner in Washington, DC. The Leadership Council is comprised of African-American executives of Fortune 500 companies. I had the
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 privilege of joining Council president, Ann M. Fudge, and a host of distinguished guests for a very enjoyable as well as enlightening meeting.

One of the highlights of the Leadership Council's dinner was an excellent speech on the issue of affirmative action. The speech was delivered by John H. Bryan, chairman and chief executive officer of the Sara Lee Corp. He is well qualified to address this topic, having spent the past 35 years in top management positions in the world of business, and 21 years at the helm of Sara Lee.

During his remarks to the Leadership Council, Mr. Bryan looked at the issue of affirmative action from a business standpoint. He cited the movement of minorities and women over the years into business positions that previously were held only by white males. He stated:

This opening up of business opportunities is enormously significant. For it is a reversal of the course of all history, a history during which minorities and women have been largely excluded from leadership roles in the world of business.

Despite the success of affirmative action initiatives, however, Mr. Bryan expressed his concern that the greatest challenges lie ahead. In this, he is speaking to the audience that I believe in the light of the current climate on the business and political front, affirmative action must be vigorously defended. Mr. Bryan concluded his speech before the Executive Leadership Council by saying:

The economic opportunities for people of generations to come in America—and, yes, even around the world, depend on the continued success of the United States in advancing diversity throughout its business and corporate sector.

Mr. Speaker, those of us who are staunch defenders of affirmative action recognize the sober truth of Mr. Bryan's remarks. His speech is also very timely. I am pleased to share John Bryan's remarks with my colleagues. He has provided keen insight on a very important topic.

EXECUTIVE LEADERSHIP COUNCIL REMARKS
(By) John H. Bryan

Thank you very much. It is a great honor for me to serve as a co-chairman of this Executive Leadership Council dinner tonight. And, I am especially pleased to be joined in this chairmanship by Vernon Jordan, someone who is a contemporary of mine, a fellow-southerner, a great friend, and one of my bosses as a result of his being on Sara Lee's Board of Directors for many years.

It is my privilege to serve as a warm-up act for Vernon this evening! To do that, I shall be brief, but I do want to offer a few thoughts on the current times. These are thoughts that come from the perspective of someone who has spent the past 35 years in top management positions in the world of business, and the past 21 years as the chief officer, on a surprisingly small and a board member of several of our large firms.

During that time, there have been remarkable social changes in our country, one of the most striking of minorities and women into business positions that previously were held only by whites. This opening up of business opportunities is enormously significant. For it is a reversal of the course of all history, a history during which minorities and women have been largely excluded from leadership roles in the world of business.

And, tonight, we are all here only because of the advancements which so many have made in the business world. It is that advancement which allows us, tonight, to celebrate the accomplishments of individuals in business and give recognition to exceptional individuals. Today, there are serious threats to maintaining and continuing such progress—threats to accomplish the aims of an organization like the Executive Leadership Council.

The political winds are shifting. Affirmative action, the tool which has been the key to effective change, is today subjected to rhetoric which condemns it or at least questions its usefulness. Thus, today, affirmative action is a fragile concept and, for that reason, future progress is threatened.

My point of view is that affirmative action must be vigorously defended. Twenty-five years is not long enough to change a nature in people—a nature which for centuries has caused people to discriminate and abuse one another based on differences of race, religion, gender or whatever. And, in twenty-five years, surely not enough has been accomplished to put to rest the best tool which has been used to make the progress thus far. I believe that the time—setting that objective, America does not need affirmative action to do what is right, but that is not the case. Corporate America is busy—busy merging, reorganizing, redefining, most of all, just trying to satisfy shareholders in the most competitive environment the world has ever seen.

The advancement of minorities and women is not the highest priority for most of corporate America today. And so without affirmative action, without an outside spotlight on this issue, without the strongest possible effort by organizations such as ELC, to measure and recognize progress in this area, there is no assurance of gains and opportunities for minorities and women in business.

We must keep in mind that affirmative action actually works. It, in fact, is how we manage our businesses, making choices and telling another one what to do. In my experience, in business, use affirmative action to change attitudes all the time—setting objectives, deciding what course to take, telling people to just "do it".

And I expect this is precisely the approach used when the management team of President Clinton was selected a few years ago. You will recall that President Clinton openly and consciously chose his management team with which his appointees had to "look like America." By doing that, Bill Clinton defined inclusion and praised diversity as no other president before him. And, with a little help from Vernon Jordon, he named the most diverse cabinet in our history, 29% of his management group were African American, 36% Hispanic, and nearly one-half women. Regardless of one's political persuasion, this dramatic example of affirmative action by a president was a notable happening.

The balanced cabinet of President Clinton demonstrated to us so clearly that the problem never has been one of finding capable minorities, women or people from diverse groups, the problem has been creating the right environment—an environment in which such individuals have an equal opportunity to contribute. It is organizations like you, the ELC, who must support that environment. You must keep measuring and reporting the success of people and corporations, and you must work to keep our government engaged and our political leadership supportive.

The economic opportunities for people of generations to come in America—and, yes even around the world, depend on the continuing success of the United States in advancing diversity throughout its business and corporate sector.

The time is imperative that we, in this time, defend the concept of affirmative action.

I compliment the Executive Leadership Council tonight, and let me offer the strongest possible encouragement for you to continue your good works.

NIXON LIBRARY REMAINS OPEN—A MODEL FOR OTHERS

HON. JAY KIM OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. KIM. Mr. Speaker, following the expiration of the short-term continuing appropriations resolution on November 13, all but one of the Presidential libraries were forced to close. Only the Richard Nixon Library and Birthplace in Yorba Linda, CA, continued full operations during the budget crisis. In fact, the library offered free admission and gift shop discounts to those Federal employees who were furloughed. This was possible because, unlike all the other Presidential libraries, the Nixon Library is the first and only Presidential museum to be operated without Federal funding. The museum is supported through admissions, gift shop revenue and private donations.

I recognize and appreciate the important educational value of Presidential libraries. Each year, over a million Americans—re-live or experience for the first time their own history by visiting a Presidential museum. The libraries also serve as an archive of information and other historical resources for scholars.

But, there is a price to pay for this. The operation of these nine Presidential libraries costs the taxpayer $24.5 million per year. In order to achieve the goal of a balanced budget within 7 years, Government spending will have to be cut. The recent budget crisis, as highlighted by the closure of the Federal Government for a week, underscores the difficult choices that need to be made in this process. Every federally funded program must be carefully evaluated and prioritized, including the Presidential libraries. While the percentage of funding these libraries receive may be relatively small in comparison to the overall $1 trillion-plus Federal budget, every dollar still counts nonetheless.

The Richard Nixon Library and Birthplace does not cost the taxpayer a penny to operate. Yet, it provides the same historical experience and other services as the federally-funded libraries. It was planned this way deliberately by the fiscally conservative late President. I am proud to represent Yorba Linda and the Nixon Library in Congress and I have personally visited the library on a number of occasions. Without prejudice, I must say that its displays rank as some of the best of any Presidential library. In part, I believe that is because the library understands that to attract the public and obtain private financial support, it must present quality, dynamic programming. It must compete for the public's attention and business because it does not rely on a continuous Federal subsidy as its other libraries do. I invite my colleagues to come to Yorba Linda and see the success of the Nixon Library for themselves.
Thus, as part of the ongoing effort to trim the size and cost of Government, the National Archives, which oversees the Presidential libraries, and the Congress ought to carefully analyze the highly successful Nixon Library and determine whether the other Presidential libraries could follow this model and be privatized. I think this is an idea that’s long overdue.

PROHIBITION OF FUNDS FOR DEPLOYMENT OF TROOPS TO BOSNIA

HON. STEVE LARGENT
OF OKLAHOMA
IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. LARGENT. Mr. Speaker, I rise today to applaud the passage of H.R. 2606, to prohibit the use of funds appropriated to the Department of Defense from being used for the deployment of United States ground troops in the Republic of Bosnia and Herzegovina unless funds for such deployment are specifically appropriated by law. The act passed this body 243 to 171 and I regret that I was absent and unable to add my vote in favor of this bill.

This legislation promotes a balanced, serious approach to the complicated situation in the former Yugoslavia. It is balanced because it provides for a deliberative process. It is serious because American lives and the sovereignty of people are at stake.

There is no question that the United States assumes a great deal of responsibility as the de-facto world military power. However, without a clear military objective and mission, American leadership efforts may lead to little positive results. H.R. 2606 maintains the kind of thoughtful, deliberative legislative process upon which this country was founded. Again, I am encouraged by the passage of this act.

A TRIBUTE TO MIRI MARGOLIN, SCULPTRESS OF THE WALLENBERG BUST

HON. TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in commending an outstanding artist from Israel, Ms. Miri Margolin. Ms. Margolin is the creator of a bronze bust of Raoul Wallenberg, the Swedish diplomat whose courageous efforts in Budapest in 1944 saved the lives of as many as 100,000 Jews.

The bust now stands for all time in the U.S. Capitol. In a ceremony in the rotunda on November 2, 1995, Ms. Margolin’s personal story as a sculptor in bronze began late in life. The defining moment came from the tragic death of her heroic nephew, Jonathan Netanyahu, who died commanding the Israeli rescue of Jewish hostages held in Entebbe, Uganda. Seeking a way to express her grief and feeling for Jonathan, she began to sculpt a bust of the young officer.

A ceramic artist all of her life, Ms. Margolin’s bust of “Yoni” was her first work in bronze. She then began a career immortalizing other heroes of the Jewish people. Her busts of David Ben-Gurion, Yitzhak Shamir, Shimon Peres, and Moshe Dayan have earned her the highest critical acclaim—as have her busts of peacemakers past—Menachem Begin, Anwar Sadat, and President Jimmy Carter. Her bust of Ben-Gurion is on display at the David Ben-Gurion Library at the Kibbutz, Sde Boker. Her bust of Wallenberg, and its placement in the U.S. Capitol, is a crowning achievement.

Commenting on Ms. Margolin’s work in 1988, then Foreign Minister Shimon Peres wrote to her on the subject of his own bust: “* * * I deeply admire your creative talent, certainly more than your sculpture’s subject. I can tell you that you truly know how to infuse stubborn, solid matter with power and content. Your watchful and confident personality gives this item, like many of your other creative works, a dominance bearing vitality, standards which create a new resonance. * * *”

On November 2, 1995, one of Ms. Margolin’s most magnificent works, her bust of Raoul Wallenberg, was dedicated for permanent placement in the U.S. Capitol. In a ceremony that included speeches from Speaker Newt Gingrich of the U.S. House of Representatives, Senate majority leader Tom Daschle, Supreme Court Justice Ruth Bader Ginsburg, Speaker Birgitta Dahl of the Swedish Parliament, Speaker Zoltan Gali of the Hungarian Parliament, and Speaker Shevach Weiss of the Israeli Knesset, the life and deeds of Raoul Wallenberg were praised and honored. Ms. Margolin was recognized for her unique contribution to Wallenberg’s legacy, and she warmly thanked the Congress for accepting her work.

Mr. Speaker, I ask my colleagues to join me in extending our eternal gratitude to Miri Margolin, the creator of the U.S. Capitol’s bust of Raoul Wallenberg.

TRIBUTE TO JACK BAKER

HON. FRED UPTON
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. UPTON. Mr. Speaker, I rise today to pay tribute and give sincere thanks to a long time member of my congressional staff who has been an unflappable administrator, devoted public servant and loyal friend. Jack Baker, my 6th District Congressional District Director, is embarking on the well-deserved retirement he had originally planned for nearly 10 years ago.

As Jack leaves, he departs from a district operation that is strong and swift in response because of the rock solid foundation he laid nearly a decade ago when I tapped him as my one and only choice to build a top notch constituent service operation, second to none.

As we know all too well, public service can be a very demanding occupation. Throughout the many legislative battles we have experienced in Washington over the last 9 years, it was a great comfort to me to know that Jack was back home dutifully at the helm of our district operation.

As captain of our constituent service ship, Jack has kept us on a steady course, never underestimating the value of the views of ordinary citizens; never failing to give it his all to respond to their needs. For Jack, no problem was too big or too small.

Jack leaves, I am quite sure, with many good memories and outlandish stories of his life in our congressional office: yes, truth sometimes is stranger than fiction as Jack could tell you.

Despite the many challenges of being a district director, and the curve balls frequently thrown, Jack always maintained a common sense approach, easy going manner, and a much welcomed and finely honed sense of humor. It is for those qualities that he is known and loved by the numerous people he has come in contact with over the course of his career in our office.

It is very rare to find an individual who can so effectively yet humbly perform his or her duties, day in and day out, without demanding anything more than the enjoyment that comes from serving others. Jack Baker, through thick and thin has always treated people with respect, dignity and decency. He leaves a tremendous void and will be sorely missed by the many who have enjoyed working with him as he oversaw and actively participated in the vast myriad of services provided by a congressional district office.

Jack, for many years you have enthusiastically and effectively served the people of the 6th District; you have warmed many hearts and made a difference to many people. I wish you and Teri many years of good health and happiness as you open a new chapter in your life together.
ST. LOUIS GATEWAY CLASSIC FOUNDATION SCORES WIN FOR BLACK ORGANIZATIONS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. STOKES. Mr. Speaker, I rise today to salute an organization which is doing an outstanding job of assisting black organizations in the St. Louis area. Our colleague, the gentleman from Missouri, Bill Clay, brought to my attention the efforts of an organization known as the St. Louis Gateway Classic Foundation. The organization recently hosted a fund raiser football game. The game, which featured Howard University and the Arkansas A&M University, attracted more than 35,000 spectators. More importantly, the event garnered nearly $200,000 which was donated to local black organizations.

Mr. Speaker, I want to salute the executive director of the St. Louis Gateway Classic Foundation, Mr. Earl Wilson. I commend him for his strong commitment to giving back to the community. I want to share with my colleagues an article which appeared in the St. Louis Sentinel Newspapers concerning the foundation. It is certainly worthwhile reading.

[From the St. Louis Sentinel, Nov. 2, 1995]

ST. LOUIS GATEWAY CLASSIC FOUNDATION

Mr. Earl Wilson, executive director of the St. Louis Gateway Classic Foundation aka Budweiser Gateway Classic Football Game, deserves a loud round of applause, for a job well done.

The recent college football game by two major Black institutions, Howard University and Arkansas A&M held in St. Louis, show that Black colleges and universities are still striving, despite some major cuts in financial aid to these Black centers of higher learning.

What is unique about the St. Louis Gateway Classic Foundation which sponsors the game, it [foundation] gives something back to the community. It is a Black run organization funded through an event that is supported by the corporate community, and the bottom line is that it is profitable to perpetuate such for-profit organizations benefit from it. This is the type of event that has more Blacks and whites need to support, both by attending and contributing financially.

This year's football game attracted over 35,000 spectators, about a 15% increase over last year, which means the event is growing every year.

This local sports program is certainly an uplift in terms of an economic stimulus to the Black community. In the past, major sports events held in this city, based on the backs of Blacks and not a cent has filtered into the Black community or businesses. However, with the classic it is a much different story.

Not long ago, Wilson was associated with a major white sports event that looked good on paper, and promised to make sure that everyone in the city would benefit from it. But, this sports event was literally a sham, and Wilson and several other prominent Blacks resigned from the board and a Black economic development group almost sunk the event.

The event was the Summer Olympic Games that were held in St. Louis. The sponsors and organizers raised millions of dollars, but no Black organizations benefited from it. And, this is the normal pattern and practice of sports events that are void of Black involvement. In other words, when high profile sports events occur in major cities, the only persons that really benefit are the athletes that participate, and the economic benefits or money that is derived from the event, always finds a convenient avenue to skirt the Black community.

After all was said and done with the Gateway Classic, more than 20 local Black organizations, who otherwise would not have benefited. In closing, we wish Earl Wilson and his organization the best of luck, and hope that next year's game draws more people and gives him the ability to give away more money to Black groups, this is really the ideal concept of Blacks helping Black! Maybe Wilson needs to share his secrets of success with other Black groups throughout the city and country.

Mr. Speaker, I ask colleagues on both sides of the aisle to pass H.R. 2606. Let's pass it tonight.

TRIBUTE TO KEN HEITZKE

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. SHAYS. Mr. Speaker, I would like to call your attention to a constituent of mine, Ken Heitzke, who has served the State of Connecticut and the town of Monroe for almost two decades as an elected official. He is retiring this year from first selectman of Monroe after three terms.

Ken was awarded a bachelor of science degree from the U.S. Military Academy at West Point in 1953, a master of science degree from the University of Illinois in 1956, and a master of military arts and science degree from the U.S. Army Command and General Staff College in 1965.

He served our country for 24 years in the U.S. Army and retired with the rank of colonel. A decorated military and combat leader, Ken served in Korea, Vietnam, and with the Joint Chiefs of Staff. He has received the Distinguished Flying Cross, Legion of Merit with oak leaf cluster, Bronze Star with oak leaf cluster and five air medals.

For the town of Monroe, Ken served as chief elected official and chairman of the Monroe Town Council for 8 years. In 1989, Ken was elected first selectman under Monroes' new form of government. He was reelected in 1991 and 1993. He also served as president of the Connecticut Conference of Municipalities.

Ken's tireless dedication and support of Monroe have made this town such a wonderful place to live and work. He has unselfishly given his time and energy to the community and to our country. Ken Heitzke is a special man to Monroe and its citizens and he will always be a valued member of the community. I am proud to know him, have him as a constituent, and call him a friend. I would like to salute Ken on his good work and I wish him the best for future success.

RESTORING EQUITY BETWEEN MILITARY AND CIVIL SERVICE RETIREES

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. YOUNG of Florida. Mr. Speaker, this morning I introduced H.R. 2664 to honor our Nation's military retirees by restoring equity between their pensions and those of Federal civil service retirees.
and an excellent supporting cast, the Stallions' victory in their second consecutive Grey Cup appearance is proof that football has, indeed, been alive and well in Baltimore for quite some time now. In winning the Grey Cup, the Stallions have capped off a remarkable season this year by finishing 18-3, a new C.F.L. record. This victory also completes a football trifecta for Baltimore as we become the first city to have won an N.F.L. title, a U.S.F.L. title, and now our latest, a C.F.L. crown for our Stallions. I am proud to be a Baltimorean today.

Mr. Speaker, I rise today to honor and draw attention to an effective program worthy of commendation and support. The Gang Resistance Education and Training Program, G.R.E.A.T., a goal is something you want to work out okay? Did we make a good choice? The last thing is to think about our action and understand how gangs could ruin their lives.

Not a day goes by without negative stories about our Nation's youth and their increasing involvement in criminal activity. This builds a strong case for involving our young people in programs that compensate for the crime and violence, drugs and alcohol abuse, and negative activity that is all too prevalent in our society. Timely and well-managed programs such as G.R.E.A.T. and strong support can make the difference between a wasted and a productive life.

The future of America's children remains precarious. In society, young people are confronted with the difficult task of overcoming many obstacles which threaten their maturation. As we look towards the future of this great Nation, this is a loss our country cannot afford. Fostering development of programs that promote successful passage from adolescence to adulthood is the right thing to do because we help prevent youth from adopting antisocial and irresponsible lifestyles.

As gangs and gang related violence rise in our country, preventive programs will be on the forefront of the fight in reducing crime and the consequences of each choice. After that we should decide which action would be best and then do it. The last thing is to think about our action and the consequences of it. Did the problem work out okay? Did we make a good choice? We also learned that we have responsibilities at home, at school, and in the neighborhood. These might be taking out the trash, feeding the dog, doing the dishes, shoveling the driveway for a neighbor, or doing our best in school.

Goal setting is another important part of G.R.E.A.T. A goal is something you want to do in the future. They can be short term goals like getting an A on a test or long term goals like going to college.

Set goals, be responsible, be a part of an extended family of relatives and friends who support each other, and avoid groups of people who are out to do harm. That is the message of G.R.E.A.T.

VETERANS EMPLOYMENT AWARD

Mr. Stump. Mr. Speaker, recently my very good friend Sonny Montgomery was honored for his service to our Nation's veterans. I would like to insert the following statement in the Congressional Record, so that all Members may share in this tribute.

On November 9, 1995, Assistant Secretary of Labor for Veterans' Employment and
Training Preston M. Taylor Jr. presented Congressman G.V. (Sonny) Montgomery, "Mister Veteran", with the Veterans Employment Award at the Department of Labor’s 15th Annual Salute to All American Veterans, in Washington, DC.

The award, created by the Veterans’ Employment and Training Service, will be presented annually to a congressman by the Department of Labor’s Veterans’ Employment and Training Service wanted to recognize at this Salute ceremony the contributions Mr. Montgomery has made to veterans in general and to the agency in particular.

The Salute ceremony program of events included a brief sketch of the honoree’s biographical highlights and a letter from President Clinton commending his deep appreciation to Sonny Montgomery for all he has done on behalf of America’s veterans.

Secretary Taylor observed that Mr. Montgomery stands almost as family members whose interests he has tried to protect and advance from his strategic committee positions. Speaking in guard, Mr. Montgomery is known to be caring but stern, and will invest all his energies to protect and expand benefits he believes veterans have come to rely upon. He said that his special presence for all veterans, reservists, and National Guard members will be missed.

STATEMENT OF REPRESENTATIVE JOSEPH P. KENNEDY II, NOVEMBER 20, 1995

HON. JOSEPH P. KENNEDY II
OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I am introducing the Mom and Pop Protection Act. The Mom and Pop Protection Act provides low-cost loans for the installation of security-related features in a convenience store. Under this act, MAPPA money would be made available for small businesses to make crime-fighting improvements that may have been unaffordable in the past.

Mr. Speaker, this bill is aimed at helping mom and pop convenience stores create a safer workplace for clerks and employees who have all too often been the victims of armed robbery and violence.

We have seen crime against convenience stores rise by 38 percent nationally. Too many clerks in our neighborhood convenience stores have faced criminals who have threatened their lives at gunpoint. These criminals often prey on stores that lack the means to install the security devices this legislation makes affordable.

The act makes the installation of video-surveillance cameras and cash lockboxes possible for small businesses who could not otherwise afford such equipment. This legislation empowers the small business owner an opportunity to install equipment that has been proven to reduce crime against convenience stores. Installation of these features has been shown to reduce crime against convenience stores by 20 percent.

Mr. Speaker, the Mom and Pop Protection Act is a probusiness approach to fighting crime. It offers small business owners the opportunity to take advantage of crime prevention methods that larger, better financed convenience stores already have in place.

INTELLECTUAL PROPERTY ANTITRUST PROTECTION ACT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

HON. HENRY J. HYDE
OF ILLINOIS

Mr. HYDE. Mr. Speaker, today I am introducing the Intellectual Property Antitrust Protection Act of 1995. I am pleased to be joined by my colleagues on the Judiciary Committee, Mr. MOOREHEAD, Mr. SENSBRENNER, Mr. GEKAS, Mr. COBLE, Mr. SMITH of Texas, Mr. CANTWELL, Mr. BRYAN of Tennessee, and Ms. LOFGREN who are original sponsors of this legislation.

Because of increasing competition and a burgeoning trade deficit, our policies and laws must enhance the position of American business. This requires that we ensure that the main thrust of this concern should be a top priority for this Congress. A logical place to start is to change rules that discourage the use and dissemination of existing technology and prevent the pursuit of promising avenues of research and development. Such changes arise from judicial decisions that erroneously create a tension between the antitrust laws and the intellectual property laws.

Our bill would eliminate a court-created presumption that market power is always present in a technical antitrust sense when a product protected by an intellectual property right is sold, licensed, or otherwise transferred. The market power presumption is wrong because it is based on false assumptions. Because there are often substitutes for products covered by intellectual property rights or there is no demand for the patented product, this concern should be a top priority for this Congress. The act makes the installation of video-surveillance cameras and cash lockboxes possible for small businesses who could not otherwise afford such equipment. This legislation empowers the small business owner an opportunity to install equipment that has been proven to reduce crime against convenience stores.

Second, this bill does not in any way affect the remedies, including treble damages, provided in the antitrust laws. Third, this bill does not create an antitrust exemption. The act makes the installation of video-surveillance cameras and cash lockboxes possible for small businesses who could not otherwise afford such equipment. This legislation empowers the small business owner an opportunity to install equipment that has been proven to reduce crime against convenience stores.

HON. HENRY J. HYDE
OF ILLINOIS

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For too long, Mr. Speaker, court decisions have allowed a court-created presumption that market power is always present in a technical antitrust sense when a product protected by an intellectual property right is sold, licensed, or otherwise transferred. The market power presumption is wrong because it is based on false assumptions. Because there are often substitutes for products covered by intellectual property rights or there is no demand for the patented product, this concern should be a top priority for this Congress.

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Mr. Speaker, this bill is aimed at helping mom and pop convenience stores create a safer workplace for clerks and employees who have all too often been the victims of armed robbery and violence.

We have seen crime against convenience stores rise by 38 percent nationally. Too many clerks in our neighborhood convenience stores have faced criminals who have threatened their lives at gunpoint. These criminals often prey on stores that lack the means to install the security devices this legislation makes affordable.

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Mr. Speaker, the Mom and Pop Protection Act is a probusiness approach to fighting crime. It offers small business owners the opportunity to take advantage of crime prevention methods that larger, better financed convenience stores already have in place.
but restores to them the same treatment that all others receive.

In short, the time has come to reverse the misdirected judicial presumption. We must remove the threat of unwarranted liability from those who seek to market new technologies more efficiently. The intellectual property and antitrust issues should be structured so as to be complementary, not conflicting. This legislation will encourage the creation, development, and commercial application of new products and processes. It can mean technological advances which create new industries, increase productivity, and improve America’s ability to compete in foreign markets.

I urge my colleagues in the House to join us in cosponsoring this important legislation.

LIES, LIES, AND MORE LIES

HON. BARBARA-ROSE COLLINS
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Monday, November 20, 1995

Miss COLLINS of Michigan. Mr. Speaker, let’s stop the lies. Every time a Member gets up on this floor and says that Democrats don’t want a balanced budget, that’s a lie. We all want a balanced budget, it’s just a question of who’s burdened with the cuts required to balance that budget. Stop the lies.

Every time a Member gets up on this floor and says that Medicare is not being cut. That’s a lie. The rate of growth in Medicare spending is being reduced. That’s a cut. Stop the lies.

Anytime you want to balance a budget, you don’t increase spending on defense, you don’t give certain people in our society a tax break, you don’t continue corporate welfare that costs the taxpayers more money than all of the social welfare put together. That doesn’t really sound like somebody who is serious about balancing a budget. That sounds more like someone who is using the budget debate to make a wholesale shift in this nation’s spending priorities, no matter who it hurts.

Stop the lies.

JIM PRESBREY’S BLADE ACROSS AMERICA

HON. ROBERT L. EHRLICH, JR.
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Monday, November 20, 1995

Mr. EHRLICH. Mr. Speaker, today I rise to commend a man who has made a long and hard journey across the country to raise money for the National Youth Sports Program, an organization which provides economically under-privileged children with sports training, free medical care, and proper nutrition education.

Jim decided to blade across America while working as a National Youth Sports Program summer camp and drug and alcohol educator. As a counselor, Jim instilled in his campers the importance of achieving goals, striving for your dreams, and believing in yourself. At the same time, Jim, recovering from major knee surgery, began riding his stationary bike for 10 minutes a day, slowly increasing his workout throughout the summer. He told his campers that his ultimate goal was to skate across America. Each day, he informed his campers of his continuing progress. At the end of the summer, Jim had to blade across America to show his campers the importance of achieving their aspirations.

On September 9, 1995, Jim began his long journey across the country, hoping to raise awareness and increase funding for the kids he worked with during the summer. After raising thousands of dollars for the National Youth Sports Program, Jim’s blade across the Nation will come to an end in San Diego, CA, on November 27, 1995. He will be the first person to in-line skate across the United States.

I urge all my colleagues to join with me and the citizens of Maryland in commending Jim Presbrey in his achievement. The example set by and money raised by his physical endurance and dedication will give thousands of disadvantaged children across the Nation the opportunity to participate in sports.

PROHIBITION ON FUNDS FOR BOSNIA DEPLOYMENT

SPEECH OF
HON. RICHARD A. GERPHARDT
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Friday, November 17, 1995

Mr. GERPHARDT. Mr. Speaker, I urge my colleagues to defeat this bill, which is nothing less than a dagger in the heart of the Bosnian peace process.

In fact, this bill is without historical precedent. Never before has Congress banned U.S. involvement in a peacekeeping effort—before peace was even secured. And this is no time to start.

There is no one who believes more strongly than I that Congress must have a vote on any deployment of United States troops in Bosnia. But that’s not what this vote is about. The President has already promised us that vote—after a peace agreement is in place.

What this bill does is something more destructive. It undermines the very fragile—and until now, very successful—peace talks that are occurring in Dayton, OH.

Is there a single Member of this body who really wants to damage those talks? Who is willing to put his name on a bill that would pull the rug out from under our negotiators, and give both sides the incentive to continue the bloodshed, the killing, the age-old animosities?

Our Secretary of State has said that this vote: “could be misinterpreted and give the parties reason for delay and hesitation.”

The Washington Times has urged the Republican Members of this House not to take this vote today, “before there is even something to vote on,” because doing so would have “repercussions among our allies, our foes, and our trading partners.” Is that what we want?

Do we want to tell the Serbs and the Muslims that our negotiators didn’t have the support of the Congress, or the country? That we’re ready to revoice their promises before they are even made?

Let’s remember our ultimate goal in Bosnia: to finally stop the death and destruction. To end some of the worst atrocities since World War II. To stand up for peace throughout Europe.

It’s right for America to do this, because if we don’t lead the world, no one else will.
It is because of America’s leadership that we have democracy in Russia. And racial equality in South Africa. And democracy in Haiti. Would we have wanted to bargain that away to make a poorly timed political point?

I urge you to vote no on the Hefley bill—so that peace talks can at least proceed, without the baggage this bill would impose. Then we will know that peace talks can at least proceed, without away to make a poorly timed political point?

Haiti. Would we have wanted to bargain that we have democracy in Russia. And racial

November 20, 1995

Mr. HOUGHTON. Mr. Speaker, my interest in the Republic of Turkey has increased since my visit there in August, so I would like to bring some attention to the debate in the European Parliament about the approval of a customs union with Turkey. This decision will have a major impact on western strategic and economic interests.

The key question is whether or not the European Parliament will accept or reject this promising nation of over 60 million people, thus making the future of the EU’s southern flank uncertain.

As you know, the Republic of Turkey, established in 1923, is a western-style, secular democracy. It has distanced itself from the religious extremism of the Ottoman Empire, and emerged as a strong pillar of hope for secularism in the Moslem world. Over the past 72 years, Turkey has developed into a mature democracy with steadfast institutions and an independent judiciary. The Turkish Government and population are committed to furthering and enhancing Turkey’s democracy. This is demonstrated by recent reforms passed by the Turkish Parliament. These ongoing reforms, coupled with increasing economic potential, enable the country to play a larger, more significant role in Europe’s economic and political growth.

Today, Turkey is a model for the New Independent States of the former Soviet Union—namely Azerbaijan, Kyrgyzstan, Uzbekistan, Turkmenistan, and Kazakhstan. I think you’d agree that it is in our interest that these countries, which have rich, natural resources and educated population, choose to follow Turkey’s example rather than those of its other neighbors.

In addition, Turkey’s code of laws has been aligned with those of other European countries, as the parliament has passed significant pieces of legislation including laws on copyrights, decentralization, and human rights. Some of our European colleagues suggest that such initiatives are insufficient, and that the customs union decision should be delayed until the Turkish Parliament satisfies their concerns.

I would like to ask our European colleagues to keep in mind the difficulties of a democratic system—the mechanics of the democratic process which require extensive debate and parliamentary approval in order to bring about legislative changes. If Turkey were a dictatorial regime, the government would dictate changes which would be readily approved.

Although reform in a democratic system is tough, there have been dramatic changes to Turkey’s laws. On the human rights front, there are amendments to article 8 of the antiterrorism law. These changes promote the freedom of expression, and have permitted the release of prisoners detained under this article. In fact, a week after these changes, the courts released 82 people—an impressive response by any standard. Last July, Turkey’s Parliament passed 16 amendments to the constitution, expanding and strengthening the democracy.

Turkey is clearly situated in a volatile area, as they share borders with Iraq, Iran, Syria and former Soviet States. Those that support the advancement of democracy and human rights should ask themselves how these principles would better be served—by bringing Turkey into the European fold, anchoring it to the West, or leaving Turkey to languish outside of Europe.

Mr. Speaker, I think that many of my colleagues would agree that a “yes” vote on EU customs union with Turkey would mean a right move right for Europe, right for Turkey, right for democracy and human rights. I hope you’ll join me in urging the European Parliament to vote in favor of the customs union with Turkey on December 14.

50TH ANNIVERSARY OF EBONY MAGAZINE

HON. CARDISS COLLINS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Monday, November 20, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, I rise today in recognition of the historic symbols and witness-participants that have chronicled the hopes and aspirations of the African-American community for 50 years—Ebony magazine and its founder and guiding spirit, John H. Johnson.

In November 1945, Ebony magazine was born. This was a time of new beginnings for both black and white Americans. It was a period that has been remembered as the beginning of the Jackie Robinson revolution in athletics and the Thurgood Marshall Revolution in the legal and judicial arenas, and it signaled the beginning of the flowering of American culture—in music, fashion, and beauty.

Ebony magazine and its founder, John H. Johnson, are so closely identified with the major changes of this period that it would be virtually impossible to acknowledge these changes without acknowledging the contributions of these two icons.

The perceptions and images of black America during this period underwent a revolutionary shift which has affected every American, both white and black, and its is clear that John H. Johnson and his Ebony magazine truly became both the architects and chroniclers of this new African-American spirit.

For me, Ebony magazine and its founder are especially powerful images. It was through Ebony that we first witnessed the successes and contributions to the African-Americans throughout the National Society. Ebony heralded our achievements in the performing arts, in the business community, and in the professions of law and medicine—all the while celebrating the spirit and unity of the African-American community. It was through Ebony that I, like millions of other Americans, first learned of the living richness of our unique culture.

For 50 years, Ebony magazine has truly embodied our Nation’s diverse heritage. Through its pages, millions of the world have been exposed to African-American stories of struggle and triumph. Ebony has been successful in empowering and influencing the African-American people with the pride and determination to overcome the hurdles imposed by this Nation’s cultural divisions and racial barriers.

Mr. Speaker, I ask you and my colleagues to join me in paying tribute to these two great pioneers of black communications who have triumphantly broken through all the barriers that so limited their predecessors. Ebony magazine has laid the foundation for all contemporary black publications, and every black personality working in the communications industry today owes them a great debt.

Ebony and John H. Johnson have helped change the way we think about blacks and what black Americans think about themselves. Ebony was founded to give both blacks and whites an increased awareness of the possibilities of a new and different world. In the words of Ebony’s founder: “We wanted hope. In a world of negation and black images, we wanted to provide positive black images. In a world that said blacks could do few things, we wanted to say the could do any thing.”

Mr. Speaker, I am proud to say the Ebony magazine, headquartered in my Seventh Congressional District of Illinois, has fulfilled that mission and it is my sincere belief that it will remain the vanguard, continuing to capture the beauty and proud spirit of the African-American people.

HONORING KENNETH R. KORNHAUSER, FRED MILSTEIN, AND LEONARD COOPER

HON. GARY L. ACKERMAN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, November 20, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with the members of the Suffolk Association for Jewish Educational Services [SAJES] and my constituents in the Fifth Congressional District as they gather to honor Kenneth R. Kornhauser, Fred Milstein and Leonard Cooper for distinguished service in advancing the cause of Jewish education in Suffolk County, NY.

Through innovative and creative leadership, Kenneth R. Kornhauser has provided a solid basis of support to the advancement of quality Jewish education. A member of Temple Beth Torah, Kenneth is an involved board member of an array of Jewish organizations that include the Suffolk Y Jewish Community Center, the Gurwin Jewish Geriatric Center, the United Jewish Community Center of Long Island, and SAJES.

Honoree Fred Milstein also is being recognized for his endless dedication to the Suffolk Jewish Community. He has exemplified himself and enhanced the community through his active and effective participation as a member.
of the Suffolk Jewish Center, and as a board member of SAJES, the Solomon Schechter Day School of Suffolk County, B’nai B’rith, the World Jewish Congress, and the Suffolk Jewish Communal Planning Council.

Extraordinary is a word that belittles SAJES’s third honoree, Leonard Cooper. Because of his extraordinary talents for enhancing the Suffolk Jewish community, SAJES confers upon him an award of special recognition. Leonard has served with great distinction and effectiveness as the first president of the Suffolk Y Jewish Community Center, and he is also a board member of the Guwin Jewish Geriatric Center. In addition, he has served as campaign chairman for the United Jewish Appeal on Eastern Long Island.

Without compensation or demand for recognition, these men have given of their great skills and talents to the uplifting and betterment of our community. It is with great pride that I call upon all my colleagues in the House of Representatives to join me in paying tribute to Kenneth R. Kornhauser, Fred Milstein and Leonard Cooper. May their good works and selfless deeds serve as an example for all Americans to follow.

PERSONAL EXPLANATION

HON. JIM McDERMOTT
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Monday, November 20, 1995

Mr. McDERMOTT. Mr. Speaker, due to a family emergency, I was not able to attend the House legislative sessions on November 17 and 18, 1995. If I had been here, I would have voted in the following manner: rollcall vote No. 810, “nay;” rollcall vote No. 812, “nay;” rollcall vote No. 813, “nay;” rollcall vote No. 814, “nay;” rollcall vote No. 815, “nay;” rollcall vote No. 816, “nay;” rollcall vote No. 817, “nay;” rollcall vote No. 818, “yea;” and rollcall vote No. 819, “nay.”

HAPPY 35TH WEDDING ANNIVERSARY TO KATHRYN AND RAPHAEL FALLON

HON. ROBERT K. DORNAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, November 20, 1995

Mr. DORNAN. Mr. Speaker, it is my honor to rise today to congratulate Kathryn and Raphael Fallon of Wenona, IL, on the occasion of their 35th wedding anniversary. I am submitting for the RECORD a copy of a news article describing their wedding ceremony on November 19, 1960. I also am including a copy of an award winning essay by the late Kathryn Brunski as well as a news article describing how Raphael was able to complete his college degree while operating a 240 acre grain farm. Congratulations Kaye and Ray on your 35th wedding anniversary.

KATHRYN BRUNSKI, RAPHAEL FALLON VOWS GROWS EXTENDED

Simplicity was the keynote of the wedding which united the lives of Miss Kathryn Brunski, daughter of Mrs. Edgar Brunski and the late Edgar Brunski of Wenona and Raphael Fallon, son of Mrs. Kerrie Fallon and the late Kerrie Fallon of Rutland at St. Mary’s church, Wenona, at 9:30 a.m. on November 19th.

The nuptial Mass and single ring service was celebrated by the Rev. Paul Reddy before the altar adorned with white and gold decorations. Ninety members of the bridal party and the organ assisted by the children’s choir.

The bride wore a silk brocade costume in candlelight with a matching velvet petit hat with a blusher veil and carried an arrangement of white roses on a white pearl prayerbook, a gift of the groom.

The maid of honor was Angela Goropesek, a close friend of the bride, who wore a silk gold brocade hat with matching hat and carried a cascade arrangement of white Fuji mums.

Andrew Fallon of Beloit, Wisconsin, was his brother’s best man.

The mother of the bride wore a blue suit dress with matching accessories and the bridegroom’s mother wore a green knit dress with matching accessories. Both had white carnation corsages.

A dinner for the immediate family was held at Ryan’s Corner House in Tonica following the ceremony.

WINNING ESSAYS IN RURAL LIFE CONTEST PUBLISHED

The essay written by Kathryn Brunski, winner in the junior division, is as follows:

WHY RURAL BOYS AND GIRLS THINK OFTEN OF GOD

Rural boys and girls think often of God because they have a wonderful opportunity to observe nature. Consequently they are able to realize how God handles things.

In the beautiful days of spring the boys and girls on the farm can learn the wonderful miracles of life. They can watch their fathers plant the seed and see the beautiful green plants begin to grow.

When they play in the nearby woods and watch the flowers and trees bud and blossom into bloom, as they watch everything becoming alive, they can think of God who gives life to all things, and who makes the world beautiful for the men whom He has made.

In the summer, when the sun shining, the crops at the height of their growth, when everywhere nature can be seen at the height of her glory, grateful thoughts turn to God.

As winter draws near, when rural boys and girls see everything dying— the leaves of the trees falling, all the beautiful green becoming brown and dry, they will realize that they too must die some day, and that they should have their souls in readiness for that day.

Everything in nature tells them of God’s care for men. God sends the essential rain and sunshine for crops. He provides trees from which man can obtain food, wood, and even shelter. He provides plants for food, clothing, and other purposes; the rivers for transportation are His creation. To what other boys and girls does God’s care seem so necessary and so protecting and loving? When they look around and see the great wonders of nature, they will turn their thoughts to Almighty God who has made all things possible.

Country children can realize just how all things depend on God. If God doesn’t send the necessary rain and sunshine for crops, the long hours that their fathers spend in doing the hard work that is necessary on the farm will be in vain. They learn how little man can do without God’s help.

Wherever the country boy or girl turns he sees some evidence of God’s great love, kindness, and power, and thinks more often of the Creator and Lord of all things.

RUTLAND FARMER TRAVELS 40,000 MILES FOR DEGREE

RUTLAND—When candidates for Bradley degrees don their academic robes and start- ing toward the Robertson Fieldhouse Sunday evening, one among them will view the last walk as a “Snap.”

Twelve years and 40,000 miles lie behind his search for a college degree.

Raphael Fallon, who operates a 240-acre grain farm about two and a half miles northeast of Rutland, will be reaching the culmination of a dream that started several years ago and was achieved only through a dogged determination.

MAJORED IN ACCOUNTING

Fallon will receive a degree in business administration with a major in accounting.

“Many people think that you can’t use this kind of an education in farming,” he says, “but you sure can—especially cost accounting.”

Fallon transferred about two years of previous college work, started at LaSalle-Peru Junior College and University of Illinois Extension Service, to Bradley in 1956.

In the last four years, he has commuted regularly to Bradley’s junior college, covering about 100 miles each night, in order to complete work for his degree.

He never missed a class session and maintained a “B” average.

OPERATED ON SCHEDULE

How can you run a farm and still manage to travel and study?

“It’s important to schedule yourself,” says Fallon, “I managed to work out an organized program at home for study and work. I don’t think that you can do it without a schedule.”

“I owe an awful lot to the instructors at Bradley and to my parents,” says the dark-haired farmer. “It was their encouragement and help that made it possible. I have a younger brother and sister, each of whom has a master’s degree, and this was an inducement to keep up with them.”

Fallon made the trip alone except for one semester when he had a student from Minonk as a rider. Fortunately, he had no trouble in the four years that he drove to Peoria, but weather made some of his trips difficult. During last winter’s heavy snows, it was sometimes sleety and sometimes foggy. Ordinarily, he was home before midnight.

ANYONE CAN DO IT

“Lots of young fellows up my way have talked about coming down,” says Fallon. “It’s one way to get an education when you can’t go full time during the day. If an ordinary individual like me can do it, anyone can.”

Fallon only came close to missing a class on one occasion. This was two weeks ago when his father died. The funeral was on a Monday and Fallon considered missing class that night, but decided to make the drive after the rites and thus maintain his record.

What next for the farmer accountant?

“I think I’ll work for my master’s degree in business administration. I already have three hours toward the degree and I figure that another 15,000 or 16,000 miles and I can get it.”
The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2504) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes:

Mr. VENTO. Mr. Chairman, I rise in support of House Resolution 250 and H.R. 2564, legislation to strictly limit gifts to Members of Congress and to strengthen the disclosure requirements for professional lobbyists. The positive action before us will incorporate this change into the House rules.

This reform legislation is long overdue. In fact, if not for the Republican parliamentary majority, I doubt last year's proposals would already be the law of the land. Unfortunately, in 1994 when the Democratic Congress tried to pass these important congressional reforms, the Senate Republicans blocked our efforts. That is the recent history of this debate. Today, I urge my Republican colleagues' belated conversion and welcome them as they join the Democratic Party's efforts to reform how Congress operates and public accountability.

As we consider these proposals today, I urge my colleagues to resist the temptations to weaken or side track these needed reforms. As we are serious about reforms, we should oppose the Burton amendment to House Resolution 250. That policy path is business as usual wrapped in new disclosure reports and does not merit support.

For too long this year, meaningful congressional reforms have been postponed. A separate important initiative, the Lobbying Disclosure Act, attempts to modernize our Federal lobbying registration requirements and is intended to effectively cover all professional lobbyists. This too is far too a measure that passed the House in the past Congress but again was held up in the Senate and did not become law. While this bill does cover professional lobbyists, grassroots lobbying would not be covered.

Mr. Chairman, it is unfortunate that under the cover of reforming professional lobbying, some Members are seeking to silence legitimate lobbying efforts by nonprofit grassroots organizations. I urge my colleagues to oppose the Istook amendment, it is wrong and its objective is not lobbyist reform but proposals to which some extreme Members of Congress disagree.

I urge my colleagues to join me in defeating this new gag rule. The new Republican majority in Congress may not want to hear from nonprofit and charitable organizations, who so often serve and advocate for people in need, but I want to hear from such groups. These groups surely act as the conscience of those without power. Further, I believe that this is a light of free expression and such involvement is essential in a free society. The Republicans have been making public policy based on anecdotes and radio talk sound bites. Congress must make public policy on the facts and on information from those individuals on the front lines. We need the input from the Red Cross, the Children's Defense Fund, and the Catholic Conference of Bishops as we develop policies on welfare, housing, and health care—issues to which these organizations have committed their time and limited funds. I want to hear from the American Lung Association, the Alzheimer's Association, and the American Cancer Society about health research.

The Istook proposal attempts to characterize such groups as publically funded lobbyists and pretends to address a misuse of Federal funds. But Federal law already bans the use of public funds for political advocacy, and the advocates of the new restrictions certainly have not been able to demonstrate that the current law has been violated. The Istook amendment goes far beyond the current law and its intent is to have Groups use their own funds for political advocacy. This is purely an attempt to kill the messenger because some Republican Members do not want to hear the message.

I believe that all Americans have the right of free speech. In developing national policy, Congress benefits from the input and experience of all citizens. Whether it be a multibillion dollar corporation, an advocacy group for the homeless, or the individual citizen, their voices should be heard. The Istook amendment sets a dangerous precedent in trying to silence the voice of a key segment of American society—those serving the Americans in need without a voice or means.

In conclusion, I would point out to my colleagues that the most crucial component of congressional reform is left undone. Unless and until we have meaningful political campaign funding reform in place, the special interests will continue to exert a land to govern.
colleagues and him of another Holmes' observation in The Sign of Four: "When you have eliminat ed the impossible, whatever remains, however improbable, must be the truth." The truth is that Gerry Holmes will be missed. We want him to do well at all that he does, but his absence will leave a hole that will be hard to fill.

Mr. Speaker, I urge you and all of our colleagues to join me in wishing Gerald E. Holmes every success in the days to come.

100TH ANNIVERSARY OF U.S. BATTLESHIPS

HON. BRIAN P. BILBAY
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. BILBAY. Mr. Speaker, I come to the floor today to honor and commemorate the hundredth anniversary of the U.S. battleship, and the men who served on board.

The battleship has played a vital role as a symbol of U.S. power. President Theodore Roosevelt sent 16 battleships, known as the "Great White Fleet," to sail around the world from 1906–1909 to demonstrate to European powers America's strength and a willingness to use it to support our national interests. The U.S.S. Missouri (BB–63) epitomized the symbolism of the battleship by serving as the platform for Japanese surrender at the conclusion of World War II. The battleship has served in every major conflict this country including our most recent in the Persian Gulf.

The first battleship, the U.S.S. Indiana (BB–1), was commissioned on November 20, 1895 and set sail under the command of Captain Robley D. Evans. At the beginning of the Spanish-American War, the Indiana helped define the United States as a great power, when she formed up with Admiral Sampson to intercept Spanish Admiral Cervera's squadron, which was positioning itself to defend Spain's colony on Cuba. The two forces clashed out-side of Santiago, Cuba where the Indiana quickly sunk two Spanish destroyers, leading to the freedom of Cuba from Spain's dominion, and ushering in an era of the supremacy of the battleship.

During World War II, the battleship played an important role in the defeat of the Axis powers. The South Dakota (BB–57), the North Carolina (BB–55) and the Washington (BB–56) helped to protect the first U.S. ground offensive of the Pacific at Guadalcanal. When General MacArthur made good his promise to return to the Philippines at Leyte Island in 1944, he had battleships. The Maryland (BB–46), Pennsylvania (BB–38), Tennessee (BB–43), West Virginia (BB–48) and the California (BB–44), all resurrected from the disaster at Pearl Harbor, participated in the liberation of the Philippine Islands, seeing their most important action at the battle of Surigao Strait. In that battle, the battleships were tantamount in the effort to repulse the Japanese Navy, and saved the very vital supply ships. At Okinawa, one of the war's most difficult engagements, the battleships were able to repel Japanese Kamikaze attacks while protecting the landing of the Marines.

In the European theater, battleships played an important support role during the D-Day landing of allied forces at Omaha and Utah beaches. The U.S.S. Nevada (BB–36), Texas (BB–35), and the Arkansas (BB–33) were primary in this effort.

Throughout the cold war, the Pentagon saw fit to recommission battleships for a variety of important roles. During the Korean War, the Iowa (BB–61), New Jersey (BB–62), Missouri (BB–63), and Wisconsin (BB–64) were dusted off and called on to support U.N. troops. They also served important missions to destroy enemy railroads and coastal artillery batteries. In Vietnam, the battleship returned to service to provide long range artillery support to ground troops. The New Jersey (BB–62) was praised for its ability to create a 200 yard wide helicopter landing zone out of a triple canopy jungle in record time. The battleship also saw active duty during Desert Shield and Desert Storm. Outfitted with sophisticated Tomahawk cruise missiles, Harpoon surface-to-surface missiles, and the Phalanx close-in weapons system, American battleships participated in the initial missile strikes against Baghdad, and in gunfire support of U.S. Marines during the ground offensive.

Today, the battleships again lay idle, and their names have been stricken from the Naval register. Thankfully, they will be preserved as a symbol of U.S. strength, and in memorial to those who served and died in the service of their country.

Mr. Chairman, the battleship is a proud testament to American Maritime power. I would like to submit for the record a list of names of the surviving battleship commanders. These men should be respected for the service they have provided to their country, and envied for their place in history. Congratulations to these survivors and to all who serve on this occasion, the hundredth anniversary of the American Battleship.

ROSTER OF SURVIVING FORMER COMMANDING OFFICERS WHO COMMANDED A UNITED STATES BATTLESHIP

USS IOWA (BB–61)
RADM. Fred J. Becton, USN (ret)
RADM. J. W. Cooper, USN (ret)
RADM. G.E. Gneckow, USN (ret)
Capt. Fred P. Meosally, USN (ret)
Capt. J ohn P. Morse, U.S. Navy
Capt. Larry P. Sease, USN (ret)

USS NEW JERSEY (BB–62)
RADM. W.M. Fogarty, USN (ret)
RADM. W. Lewis Glisson, USN (ret)
VADM. Douglas Katz, U.S. Navy
RADM. Richard D. Milligan, USN (ret)
Capt. Robert C. Peniston, USN (ret)
RADM. J. Edward Synder, USN (ret)
RADM. Ronald D. Tucker, U.S. Navy

USS MISSOURI (BB–63)
Capt. James A. Carney, USN (ret)
Capt. J ohn Cher nesky, USN (ret)
Capt. A.L. Kaiss, USN (ret)

USS WISCONSIN (BB–64)
Capt. J erry M. Blesch, USN (ret)
RADM. G. Serpel Patrick, USN (ret)
Capt. Coenraad van der S chroeff, USN (ret)

MOTION TO DISPOSE OF SENATE AMENDMENTS TO H.R. 2586, TEMPORARY INCREASE IN THE STATUTORY DEBT LIMIT

SPEECH OF
HON. L. FAYE PAYNE
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES

Friday, November 10, 1995

Mr. PAYNE of Virginia. Mr. Speaker, in urging my colleagues to vote in favor of the motion to recommit, let me take a moment to address potential arguments that those on the other side of the aisle may raise against the motion.

Congressman SAM GIBBONS and I am offering a motion to recommit the bill to the Committee on Ways and Means with instruction. As I have explained, the motion's instruction to the Ways and Means Committee is to amend the bill to provide a clean, temporary increase in the debt ceiling until either December 12—the date on which the Treasury would run out of cash—or the 30th day after a budget reconciliation bill is presented to the President for his signature, whichever is later.

First, our Republican colleagues may argue that the amendment would provide an unlimited amount of time for potential delay. That is incorrect. The amendment would raise the debt limit for a finite period of 30 days beginning as soon as a budget reconciliation bill is sent to the President for his signature. If a bill were ready today and sent to the President, the clock would begin today and stop ticking 30 days from now. The President's response to the bill would not affect the 30-day limit in any way. That 30-day period would allow us to put forth our best efforts to come together on the shared goal of a balanced budget. Our amendment is not indefinite and open ended. What seems to be indefinite and open ended is the ability of the Republican majority that controls this House to produce either a clean interest in the debt ceiling without partisan add ons or a budget bill.

Second, our Republican colleagues may argue that the amendment would give the Treasury Department a blank check to increase the debt limit to whatever level it wishes. That is incorrect. The amendment would raise the debt ceiling to exactly the same level as that in the Republican debt bill. If a budget is not presented to the President in a timely way, then a higher amount would be allowed and in that case the higher amount would be limited to only what is necessary to pay our bills in the intervening days. The amendment in the motion to recommit would raise the debt limit immediately, that is, with no provisions of any kind. This suggested amendment is the businesslike approach that the American people deserve to the current regrettable, and avoidable, impasse.

Third, our Republican colleagues may argue that the amendment would grant permission to the Treasury to raid retirement trust funds. That is incorrect. In fact, in the case of the Treasury to raid retirement trust funds. That is incorrect. The amendment would provide an unlimit ed increase in the debt ceiling until either December 12—the date on which the Treasury would run out of cash—or the 30th day after a budget reconciliation bill is presented to the President for his signature, whichever is later.

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Third, our Republican colleagues may argue that the amendment would grant permission to the Treasury to raid retirement trust funds. That is incorrect. In fact, in the case of the civil service retirement fund this amendment would restore the current-law protections for Federal retirees and workers that the Republican bill would destroy. Current law requires that the Treasury would destroy. Current law requires that any funds used from civil service pension funds and retirement savings accounts to see ourselves through a debt limit crisis, such as the one we now face, must be reimbursed...
with interest. Today this reimbursement is automatic. The Republican debt limit bill would take away that protection by repealing the requirement for automatic reimbursement of these funds with interest. My Democratic colleagues and I think that is wrong. Our amendment would protect Federal retirees and workers from that injustice. Regarding Social Security, the Secretary of the Treasury has said that he will not use funds from the Social Security trust fund for any purpose other than paying Social Security benefits. Social Security beneficiaries are fully protected. Period. Those on the other side of the aisle would be dead wrong to suggest otherwise.

Fourth, our Republican colleagues may argue that the amendment would jeopardize the orderly process of managing our Nation’s debt and honoring our Nation’s commitments. That is incorrect. Our amendment would do exactly the opposite. The orderly way to proceed with these discussions about the best path to a balanced budget is to allow a clean, temporary increase in the debt ceiling unadorned by partisan add ons. That is precisely what our amendment would do. It is precisely that orderly process that the Republican majority disrupts by insisting that temporary debt increase include partisan add ons.

I hope that our colleagues across the aisle will give our motion to recommit a careful reading. It provides an opportunity to all of us to work together rationally toward a balanced budget rather than to contribute to the atmosphere of partisanship and distrust. Again, I urge a vote in favor of the motion to recommit.
SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week. Meetings scheduled for Tuesday, November 21, 1995, may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

NOVEMBER 29
10:00 a.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings on issues relating to franchise relocation in professional sports.

SD-226

NOVEMBER 30
2:00 p.m.
Judiciary
To hold hearings on pending nominations.

SD-226

DECEMBER 5
10:00 a.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings on S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.

SD-226

DECEMBER 6
9:30 a.m.
Indian Affairs
To hold oversight hearings on the implementation of the Native American Graves Protection and Repatriation Act (P.L. 101-601).

SR-485
Monday, November 20, 1995

Daily Digest

HIGHLIGHTS
House cleared the further continuing resolution and the balanced budget measures.

Senate

Chamber Action
Routine Proceedings, pages S17499-S17512

Measures Introduced: Two resolutions were introduced, as follows: S. Con. Res. 32 and 33.

Measures Reported: Reports were made as follows:
H.R. 529, to authorize the exchange of National Forest System lands in the Targhee National Forest in Idaho for non-Federal lands within the forest in Wyoming. (S. Rept. No. 104-175)

Measures Passed:


Expressing Thanks to George M. White: Senate agreed to S. Con. Res. 33, expressing the thanks and good wishes of the American people to the Honorable George M. White on the occasion of his retirement as the Architect of the Capitol.

VA/HUD Appropriations Conference Report—Agreement: A unanimous-consent agreement was reached providing for the consideration of the conference report on H.R. 2099, making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for fiscal year ending September 30, 1996, on Monday, November 27, 1995.

Authority for Committees: All committees were authorized to file executive and legislative reports during the adjournment of the Senate on Tuesday, November 21, 1995, from 10 a.m. to 3 p.m.

Messages From the House:

Notices of Hearings:

Additional Statements:

Adjournment: Senate convened at 10:30 a.m. and, in accordance with S. Con. Res. 32, adjourned at 3 p.m., until 1 p.m., on Monday, November 27, 1995.

Committee Meetings
No committee meetings were held.

House of Representatives

Chamber Action
Bills Introduced: 10 public bills, H.R. 2668-2677; and 1 private bill, H.R. 2678; and 2 resolutions, H. Res. 281-282 were introduced.

Report Filed: One report was filed as follows: H.R. 234, to amend title 11 of the United States Code to make nondischargeable a debt for death or injury caused by the debtor's operation of watercraft or aircraft while intoxicated, amended (H. Rept. 104-356).

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Ewing to act as Speaker pro tempore for today.
Recess: House recessed at 1:41 p.m. and reconvened at 2 p.m.

District Work Period: House agreed to S. Con. Res. 32, providing for the adjournment of the two Houses—clearing the measure.

Federal Judgeships Commencement: House agreed to suspend the rules and pass H.R. 2361, to amend the commencement date of certain Federal judgeships. Subsequently, S. 1328, a similar Senate-passed measure, was passed in lieu—clearing the measure for the President. H.R. 2361 was laid on the table.

Further Continuing Appropriations: By a yea-and-nay vote of 421 yeas to 4 nays, with 1 voting “present”, Roll No. 821, the House agreed to the Senate amendment to H.J. Res. 122, making further continuing appropriations for the fiscal year 1996—clearing the measure for the President.

VA-HUD Appropriations: House agreed to H. Res. 280, waiving points of order against the conference report on H.R. 2099, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996.

Balanced Budget Amendments: By a yea-and-nay vote of 235 yeas to 192 nays, Roll No. 820, the House agreed to the Senate amendment to H.R. 2491, to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996—clearing the measure for the President.

Designation of Speaker Pro Tempore: Read and accepted a letter from the Speaker wherein he designates Representative Emerson to act as Speaker pro tempore to sign enrolled bills and joint resolutions through November 28, 1995.

Legislative Program: The Majority Leader announced the legislative program for November 27.

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of November 29.

Extensions of Remarks: It was made in order that notwithstanding any adjournment of the House until Tuesday, November 28, the Speaker and the Minority Leader be authorized to accept resignations and to make appropriations authorized by law or by the House.

Committee Resignations: Read a letter from the following Members wherein they advised the Chairman of the Democratic Caucus of their resignation: Representative Geren of Texas from the Science Committee and Representative Kennedy of Rhode Island from the Small Business Committee.

Committee Elections: House agreed to H. Res. 281, electing the following Members to the following standing committees:

To the Committee on Resources: Representative Markey to rank above Representative Rahall and Representative Kennedy of Rhode Island; and

To the Committee on Transportation and Infrastructure: Representative Geren of Texas to rank after Representative Costello.

Lobbyists: The compilation by the Clerk of the House and the Secretary of the Senate of all new registrations and reports for the 3rd calendar quarter of 1995, and reports for the second calendar quarter of 1995 received too late to be previously published, that were filed by persons engaged in lobbying activities appear in this issue of the CONGRESSIONAL RECORD.

Senate Messages: Message received from the Senate today appears on page H13357.

Quorum Calls—Votes: Two yea-and-nay votes developed during the proceedings of the House today and appear on pages H13629 and H13630. There were no quorum calls.

Adjournment: Met at 12:30 p.m. and pursuant to the provisions of S. Con. Res. 62, adjourned at 9:07 p.m., until 12:30 p.m. on Tuesday, November 28.

Committee Meetings

POW/MIA ISSUES

Committee on National Security: Subcommittee on Military Personnel met to discuss the status of requested information and witnesses related to POW/MIA issues.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST p. D1369)

H.R. 2020, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain


COMMITTEE MEETINGS FOR TUESDAY, NOVEMBER 21, 1995

Senate

No meetings are scheduled.

NOTICE

For a Listing of Senate Committee Meetings scheduled ahead, see page E2232 in today’s RECORD.

House

No Committee meetings are scheduled.
Next Meeting of the SENATE
1 p.m., Monday, November 27

Senate Chamber

Program for Monday: After the transaction of any morning business (not to extend beyond 3 p.m.), Senate will consider the conference report on H.R. 2099, VA/HUD Appropriations, 1996.

Next Meeting of the HOUSE OF REPRESENTATIVES
12:30 p.m., Tuesday, November 28

House Chamber

Program for Tuesday: Consideration of the following bills on the Corrections Calendar:
1. H.R. 2525, Modification of Antitrust Laws; and
2. H.R. 2519, Exempting certain Charitable Organizations.

Extensions of Remarks, as inserted in this issue

HOUSE

Ackerman, Gary L., N.Y., E2227
Barcia, James A., Mich., E2229
Becker, Xavier, Calif., E2229
Bilbray, Brian P., Calif., E2220
Bonior, David E., Mich., E2226
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