

**June 26, 1997**

**Ordered to be printed as passed**

***In the Senate of the United States,***

*June 25, 1997.*

*Resolved,* That the bill from the House of Representatives (H.R. 2015) entitled “An Act to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Balanced Budget Act*  
3 *of 1997”.*

4 ***SEC. 2. TABLE OF TITLES.***

5 *The table of titles for this Act is as follows:*

- Title I. Committee on Agriculture, Nutrition, and Forestry.*
- Title II. Committee on Banking, Housing, and Urban Affairs.*
- Title III. Committee on Commerce, Science, and Transportation.*
- Title IV. Committee on Energy and Natural Resources.*
- Title V. Committee on Finance.*
- Title VI. Committee on Governmental Affairs.*
- Title VII. Committee on Labor and Human Resources.*
- Title VIII. Committee on Veterans’ Affairs.*

1 **TITLE I—COMMITTEE ON AGRI-**  
 2 **CULTURE, NUTRITION, AND**  
 3 **FORESTRY**

4 **SEC. 1001. HARDSHIP EXEMPTION.**

5 *Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C.*  
 6 *2015(o)) is amended—*

7 *(1) in paragraph (2)(D), by striking “or (5)”*  
 8 *and inserting “(5), or (6)”;*

9 *(2) by redesignating paragraph (6) as para-*  
 10 *graph (7); and*

11 *(3) by inserting after paragraph (5) the follow-*  
 12 *ing:*

13 *“(6) 15-PERCENT HARDSHIP EXEMPTION.—*

14 *“(A) DEFINITIONS.—In this paragraph:*

15 *“(i) CASELOAD.—The term ‘caseload’*  
 16 *means the average monthly number of indi-*  
 17 *viduals receiving food stamps during the*  
 18 *12-month period ending the preceding June*  
 19 *30.*

20 *“(ii) COVERED INDIVIDUAL.—The term*  
 21 *‘covered individual’ means a food stamp re-*  
 22 *cipient, or an individual denied eligibility*  
 23 *for food stamp benefits solely due to para-*  
 24 *graph (2), who—*

1                   “(I) is not eligible for an excep-  
2                   tion under paragraph (3);

3                   “(II) does not reside in an area  
4                   covered by a waiver granted under  
5                   paragraph (4);

6                   “(III) is not complying with sub-  
7                   paragraph (A), (B), or (C) of para-  
8                   graph (2);

9                   “(IV) is not receiving food stamp  
10                  benefits during the 3 months of eligi-  
11                  bility provided under paragraph (2);  
12                  and

13                  “(V) is not receiving food stamp  
14                  benefits under paragraph (5).

15                  “(B) *GENERAL RULE.*—Subject to subpara-  
16                  graphs (C) through (F), a State agency may pro-  
17                  vide a hardship exemption from the requirements  
18                  of paragraph (2) for covered individuals.

19                  “(C) *FISCAL YEAR 1998.*—Subject to sub-  
20                  paragraph (E), for fiscal year 1998, a State  
21                  agency may provide a number of hardship ex-  
22                  emptions such that the average monthly number  
23                  of the exemptions in effect during the fiscal year  
24                  does not exceed 15 percent of the number of cov-  
25                  ered individuals in the State in fiscal year 1998,

1           *as estimated by the Secretary, based on the sur-*  
2           *vey conducted to carry out section 16(c) for fiscal*  
3           *year 1996 and such other factors as the Sec-*  
4           *retary considers appropriate due to the timing*  
5           *and limitations of the survey.*

6           “(D) *SUBSEQUENT FISCAL YEARS.*—Subject  
7           to subparagraphs (E) and (F), for fiscal year  
8           1999 and each subsequent fiscal year, a State  
9           agency may provide a number of hardship ex-  
10          emptions such that the average monthly number  
11          of the exemptions in effect during the fiscal year  
12          does not exceed 15 percent of the number of cov-  
13          ered individuals in the State, as estimated by the  
14          Secretary under subparagraph (C), adjusted by  
15          the Secretary to reflect changes in the State’s  
16          caseload and the Secretary’s estimate of changes  
17          in the proportion of food stamp recipients cov-  
18          ered by waivers granted under paragraph (4).

19          “(E) *CASELOAD ADJUSTMENTS.*—The Sec-  
20          retary shall adjust the number of individuals es-  
21          timated for a State under subparagraph (C) or  
22          (D) during a fiscal year if the number of food  
23          stamp recipients in the State varies from the  
24          caseload by more than 10 percent, as determined  
25          by the Secretary.

1           “(F) *EXEMPTION ADJUSTMENTS.*—For fis-  
2           cal year 1999 and each subsequent fiscal year,  
3           the Secretary shall increase or decrease the num-  
4           ber of individuals who may be granted a hard-  
5           ship exemption by a State agency to the extent  
6           that the average monthly number of hardship ex-  
7           emptions in effect in the State for the preceding  
8           fiscal year is greater or less than the average  
9           monthly number of hardship exemptions esti-  
10          mated for the State agency for such preceding  
11          fiscal year.

12           “(G) *REPORTING REQUIREMENT.*—A State  
13          agency shall submit such reports to the Secretary  
14          as the Secretary determines are necessary to en-  
15          sure compliance with this paragraph.”.

16 **SEC. 1002. ADDITIONAL FUNDING FOR EMPLOYMENT AND**  
17 **TRAINING.**

18          Section 16(h) of the Food Stamp Act of 1977 (7 U.S.C.  
19          2025(h)) is amended by striking paragraphs (1) and (2)  
20          and inserting the following:

21           “(1) *IN GENERAL.*—

22           “(A) *AMOUNTS.*—To carry out employment  
23          and training programs, the Secretary shall re-  
24          serve for allocation to State agencies, to remain  
25          available until expended, from funds made avail-

1           *able for each fiscal year under section 18(a)(1)*  
2           *the amount of—*

3                     “(i) for fiscal year 1996, \$75,000,000;

4                     “(ii) for fiscal year 1997, \$79,000,000;

5                     “(iii) for fiscal year 1998,  
6                     \$221,000,000;

7                     “(iv) for fiscal year 1999,  
8                     \$224,000,000;

9                     “(v) for fiscal year 2000, \$226,000,000;

10                    “(vi) for fiscal year 2001,  
11                    \$228,000,000; and

12                    “(vii) for fiscal year 2002,  
13                    \$170,000,000.

14                    “(B) ALLOCATION.—*The Secretary shall al-*  
15                    *locate the amounts reserved under subparagraph*  
16                    *(A) among the State agencies using a reasonable*  
17                    *formula (as determined by the Secretary) that*  
18                    *reflects the proportion of food stamp recipients*  
19                    *who are not eligible for an exception under sec-*  
20                    *tion 6(o)(3) that reside in each State, as esti-*  
21                    *mated by the Secretary based on the survey con-*  
22                    *ducted to carry out subsection (c) for fiscal year*  
23                    *1996 and such other factors as the Secretary con-*  
24                    *siders appropriate due to the timing and limita-*  
25                    *tions of the survey (as adjusted by the Secretary*

1           *each fiscal year to reflect changes in each State’s*  
2           *caseload (as defined in section 6(o)(5)(A)).*

3           “(C) *REALLOCATION.*—*If a State agency*  
4           *will not expend all of the funds allocated to the*  
5           *State agency for a fiscal year under subpara-*  
6           *graph (B), the Secretary shall reallocate the un-*  
7           *expended funds to other States (during the fiscal*  
8           *year or the subsequent fiscal year) as the Sec-*  
9           *retary considers appropriate and equitable.*

10           “(D) *MINIMUM ALLOCATION.*—*Notwith-*  
11           *standing subparagraph (B), the Secretary shall*  
12           *ensure that each State agency operating an em-*  
13           *ployment and training program shall receive not*  
14           *less than \$50,000 for each fiscal year.*

15           “(E) *PLACEMENTS.*—*Of the amount of*  
16           *funds reserved for a State agency for a fiscal*  
17           *year under subparagraphs (A) through (D), the*  
18           *State agency shall be eligible to receive for the*  
19           *fiscal year not more than an amount equal to*  
20           *the sum of—*

21                   “(i) *the product obtained by multiply-*  
22                   *ing—*

23                           “(I) *the average monthly number*  
24                           *of food stamp recipients who during*  
25                           *the fiscal year—*

1                   “(aa) are not eligible for an  
2                   exception under section 6(o)(3);  
3                   and

4                   “(bb) are placed in and com-  
5                   ply with a program described in  
6                   subparagraph (B) or (C) of sec-  
7                   tion 6(o)(2), other than a pro-  
8                   gram described in subparagraph  
9                   (A) or (B) of section 6(o)(1); by

10                  “(II) an amount determined by  
11                  the Secretary to reflect the reasonable  
12                  cost of efficiently and economically  
13                  providing services that meet the re-  
14                  quirements of subparagraph (B) or (C)  
15                  of section 6(o)(2) to food stamp recipi-  
16                  ents described in subclause (I) for the  
17                  fiscal year, as periodically adjusted by  
18                  the Secretary; and

19                  “(ii) the product obtained by multiply-  
20                  ing—

21                  “(I) the average monthly number  
22                  of food stamp recipients in activities  
23                  not described in clause (i)(I)(bb) who  
24                  during the fiscal year are placed in

1                   and comply with an employment and  
2                   training program; by

3                   “(II) an amount determined by  
4                   the Secretary to reflect the reasonable  
5                   cost of efficiently and economically  
6                   providing employment and training  
7                   services to food stamp recipients de-  
8                   scribed in subclause (I) for the fiscal  
9                   year that is less than the amount de-  
10                  termined under clause (i)(II), as peri-  
11                  odically adjusted by the Secretary.

12                  “(F) USE OF FUNDS.—Of the amount of  
13                  funds a State agency receives under subpara-  
14                  graphs (A) through (E) for a fiscal year, not less  
15                  than 75 percent shall be used by the State agency  
16                  in the fiscal year to serve food stamp recipients  
17                  described in subparagraph (E)(i)(I)(aa) who are  
18                  placed in and comply with a program described  
19                  in subparagraph (E)(i)(I)(bb).

20                  “(G) MAINTENANCE OF EFFORT.—To re-  
21                  ceive an amount reserved under subparagraph  
22                  (A), a State agency shall maintain the expendi-  
23                  tures of the State agency for employment and  
24                  training programs and workfare programs for  
25                  any fiscal year under paragraph (2), and ad-

1           *ministrative expenses under section 20(g)(1), at*  
 2           *a level that is not less than 75 percent of the*  
 3           *level of the expenditures by the State agency to*  
 4           *carry out the programs for fiscal year 1996.*

5           “(2) *ADDITIONAL PAYMENTS TO STATES.—If a*  
 6           *State agency—*

7                   “(A) *incurs costs to place individuals in*  
 8                   *employment and training programs, including*  
 9                   *the costs for case management and casework to*  
 10                   *facilitate the transition from economic depend-*  
 11                   *ency to self-sufficiency through work; and*

12                   “(B) *does not use the funds provided under*  
 13                   *paragraph (1)(A) to defray the costs incurred;*  
 14           *the Secretary shall pay the State agency an amount*  
 15           *equal to 50 percent of the costs incurred, subject to*  
 16           *paragraph (3).”.*

17   **SEC. 1003. DENIAL OF FOOD STAMPS FOR PRISONERS.**

18           (a) *STATE PLANS.—*

19                   (1) *IN GENERAL.—Section 11(e) of the Food*  
 20                   *Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by*  
 21                   *striking paragraph (20) and inserting the following:*

22                           “(20) *that the State agency shall establish a sys-*  
 23                           *tem and take action on a periodic basis—*

1           “(A) to verify and otherwise ensure that an  
2 individual does not receive coupons in more than  
3 1 jurisdiction within the State; and

4           “(B) to verify and otherwise ensure that an  
5 individual who is placed under detention in a  
6 Federal, State, or local penal, correctional, or  
7 other detention facility for more than 30 days  
8 shall not be eligible to participate in the food  
9 stamp program as a member of any household,  
10 except that—

11           “(i) the Secretary may determine that  
12 extraordinary circumstances make it im-  
13 practicable for the State agency to obtain  
14 information necessary to discontinue inclu-  
15 sion of the individual; and

16           “(ii) a State agency that obtains infor-  
17 mation collected under section  
18 1611(e)(1)(I)(i)(I) of the Social Security  
19 Act (42 U.S.C. 1382(e)(1)(I)(i)(I)) through  
20 an agreement under section  
21 1611(e)(1)(I)(ii)(II) of that Act (42 U.S.C.  
22 1382(e)(1)(I)(ii)(II)), or under another pro-  
23 gram determined by the Secretary to be  
24 comparable to the program carried out

1                   under that section, shall be considered in  
2                   compliance with this subparagraph.”.

3                   (2) *LIMITS ON DISCLOSURE AND USE OF INFOR-*  
4                   *MATION.*—Section 11(e)(8)(E) of the Food Stamp Act  
5                   of 1977 (7 U.S.C. 2020(e)(8)(E)) is amended by strik-  
6                   ing “paragraph (16)” and inserting “paragraph (16)  
7                   or (20)(B)”.

8                   (3) *EFFECTIVE DATE.*—

9                   (A) *IN GENERAL.*—Except as provided in  
10                  subparagraph (B), the amendments made by this  
11                  subsection shall take effect on the date that is 1  
12                  year after the date of enactment of this Act.

13                  (B) *EXTENSION.*—The Secretary of Agri-  
14                  culture may grant a State an extension of time  
15                  to comply with the amendments made by this  
16                  subsection, not to exceed beyond the date that is  
17                  2 years after the date of enactment of this Act,  
18                  if the chief executive officer of the State submits  
19                  a request for the extension to the Secretary—

20                         (i) stating the reasons why the State is  
21                         not able to comply with the amendments  
22                         made by this subsection by the date that is  
23                         1 year after the date of enactment of this  
24                         Act;

1                   (ii) providing evidence that the State  
2                   is making a good faith effort to comply with  
3                   the amendments made by this subsection as  
4                   soon as practicable; and

5                   (iii) detailing a plan to bring the  
6                   State into compliance with the amendments  
7                   made by this subsection as soon as prac-  
8                   ticable and not later than the date of the re-  
9                   quested extension.

10           (b) *INFORMATION SHARING.*—Section 11 of the Food  
11 Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding  
12 at the end the following:

13           “(g) *DENIAL OF FOOD STAMPS FOR PRISONERS.*—The  
14 Secretary shall assist States, to the maximum extent prac-  
15 ticable, in implementing a system to conduct computer  
16 matches or other systems to prevent prisoners described in  
17 section 11(e)(20)(B) from receiving food stamp benefits.”.

18 **SEC. 1004. NUTRITION EDUCATION.**

19           Section 11(f) of the Food Stamp Act of 1977 (7 U.S.C.  
20 2020(f)) is amended—

21                   (1) by striking “(f) To encourage” and inserting  
22 the following:

23           “(f) *NUTRITION EDUCATION.*—

24                   “(1) *IN GENERAL.*—To encourage”; and

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

1           “(2) *GRANTS.*—

2                   “(A) *IN GENERAL.*—*The Secretary shall*  
3                   *make available not more than \$600,000 for each*  
4                   *of fiscal years 1998 through 2001 to pay the*  
5                   *Federal share of grants made to eligible private*  
6                   *nonprofit organizations and State agencies to*  
7                   *carry out subparagraph (B).*

8                   “(B) *ELIGIBILITY.*—*A private nonprofit or-*  
9                   *ganization or State agency shall be eligible to re-*  
10                   *ceive a grant under subparagraph (A) if the or-*  
11                   *ganization or agency agrees—*

12                           “(i) *to use the funds to direct a col-*  
13                           *laborative effort to coordinate and integrate*  
14                           *nutrition education into health, nutrition,*  
15                           *social service, and food distribution pro-*  
16                           *grams for food stamp participants and*  
17                           *other low-income households; and*

18                           “(ii) *to design the collaborative effort*  
19                           *to reach large numbers of food stamp par-*  
20                           *ticipants and other low-income households*  
21                           *through a network of organizations, includ-*  
22                           *ing schools, child care centers, farmers’*  
23                           *markets, health clinics, and outpatient edu-*  
24                           *cation services.*

1           “(C) *PREFERENCE.*—*In deciding between 2*  
2           *or more private nonprofit organizations or State*  
3           *agencies that are eligible to receive a grant under*  
4           *subparagraph (B), the Secretary shall give a*  
5           *preference to an organization or agency that con-*  
6           *ducted a collaborative effort described in sub-*  
7           *paragraph (B) and received funding for the col-*  
8           *laborative effort from the Secretary before the*  
9           *date of enactment of this paragraph.*

10           “(D) *FEDERAL SHARE.*—

11           “(i) *IN GENERAL.*—*Subject to subpara-*  
12           *graph (E), the Federal share of a grant*  
13           *under this paragraph shall be 50 percent.*

14           “(ii) *NO IN-KIND CONTRIBUTIONS.*—  
15           *The non-Federal share of a grant under this*  
16           *paragraph shall be in cash.*

17           “(iii) *PRIVATE FUNDS.*—*The non-Fed-*  
18           *eral share of a grant under this paragraph*  
19           *may include amounts from private non-*  
20           *governmental sources.*

21           “(E) *LIMIT ON INDIVIDUAL GRANT.*—*A*  
22           *grant under subparagraph (A) may not exceed*  
23           *\$200,000 for a fiscal year.”.*

1 **TITLE II—COMMITTEE ON BANK-**  
 2 **ING, HOUSING, AND URBAN**  
 3 **AFFAIRS**

4 **Subtitle A—Mortgage Assignment**  
 5 **and Annual Adjustment Factors**

6 **SEC. 2001. TABLE OF CONTENTS.**

7 *The table of contents for this title is as follows:*

*TITLE II—COMMITTEE ON BANKING, HOUSING, AND URBAN  
AFFAIRS*

*Subtitle A—Mortgage Assignment and Annual Adjustment Factors*

*Sec. 2001. Table of contents.*

*Sec. 2002. Extension of foreclosure avoidance and borrower assistance provisions  
for FHA single family housing mortgage insurance program.*

*Sec. 2003. Adjustment of maximum monthly rents for certain dwelling units in  
new construction and substantial or moderate rehabilitation  
projects assisted under section 8 rental assistance program.*

*Sec. 2004. Adjustment of maximum monthly rents for nonturnover dwelling units  
assisted under section 8 rental assistance program.*

*Subtitle B—Multifamily Housing Reform*

*Sec. 2100. Short title.*

*PART 1—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING  
ASSISTANCE RESTRUCTURING*

*Sec. 2101. Findings and purposes.*

*Sec. 2102. Definitions.*

*Sec. 2103. Authority of participating administrative entities.*

*Sec. 2104. Mortgage restructuring and rental assistance sufficiency plan.*

*Sec. 2105. Section 8 renewals and long-term affordability commitment by owner  
of project.*

*Sec. 2106. Prohibition on restructuring.*

*Sec. 2107. Restructuring tools.*

*Sec. 2108. Shared savings incentive.*

*Sec. 2109. Management standards.*

*Sec. 2110. Monitoring of compliance.*

*Sec. 2111. Review.*

*Sec. 2112. GAO audit and review.*

*Sec. 2113. Regulations.*

*Sec. 2114. Technical and conforming amendments.*

*Sec. 2115. Termination of authority.*

*PART 2—MISCELLANEOUS PROVISIONS*

*Sec. 2201. Rehabilitation grants for certain insured projects.*

Sec. 2202. *Minimum rent.*  
 Sec. 2203. *Repeal of Federal preferences.*

*PART 3—ENFORCEMENT PROVISIONS*

Sec. 2301. *Implementation.*

*SUBPART A—FHA SINGLE FAMILY AND MULTIFAMILY HOUSING*

Sec. 2311. *Authorization to immediately suspend mortgagees.*  
 Sec. 2312. *Extension of equity skimming to other single family and multifamily housing programs.*  
 Sec. 2313. *Civil money penalties against mortgagees, lenders, and other participants in FHA programs.*

*SUBPART B—FHA MULTIFAMILY PROVISIONS*

Sec. 2320. *Civil money penalties against general partners, officers, directors, and certain managing agents of multifamily projects.*  
 Sec. 2321. *Civil money penalties for noncompliance with section 8 HAP contracts.*  
 Sec. 2322. *Extension of double damages remedy.*  
 Sec. 2323. *Obstruction of Federal audits.*

1 **SEC. 2002. EXTENSION OF FORECLOSURE AVOIDANCE AND**  
 2 **BORROWER ASSISTANCE PROVISIONS FOR**  
 3 **FHA SINGLE FAMILY HOUSING MORTGAGE IN-**  
 4 **SURANCE PROGRAM.**

5 *Section 407 of The Balanced Budget Downpayment*  
 6 *Act, I (12 U.S.C. 1710 note) is amended—*

7 *(1) in subsection (c)—*

8 *(A) by striking “only”; and*

9 *(B) by inserting “, on, or after” after “be-*  
 10 *fore”; and*

11 *(2) by striking subsection (e).*

1 **SEC. 2003. ADJUSTMENT OF MAXIMUM MONTHLY RENTS**  
 2 **FOR CERTAIN DWELLING UNITS IN NEW CON-**  
 3 **STRUCTION AND SUBSTANTIAL OR MOD-**  
 4 **ERATE REHABILITATION PROJECTS AS-**  
 5 **SISTED UNDER SECTION 8 RENTAL ASSIST-**  
 6 **ANCE PROGRAM.**

7 *The third sentence of section 8(c)(2)(A) of the United*  
 8 *States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is*  
 9 *amended by inserting before the period at the end the follow-*  
 10 *ing: “, and during fiscal year 1999 and thereafter”.*

11 **SEC. 2004. ADJUSTMENT OF MAXIMUM MONTHLY RENTS**  
 12 **FOR NONTURNOVER DWELLING UNITS AS-**  
 13 **SISTED UNDER SECTION 8 RENTAL ASSIST-**  
 14 **ANCE PROGRAM.**

15 *The last sentence of section 8(c)(2)(A) of the United*  
 16 *States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is*  
 17 *amended by inserting before the period at the end the follow-*  
 18 *ing: “, and during fiscal year 1999 and thereafter”.*

19 ***Subtitle B—Multifamily Housing***  
 20 ***Reform***

21 **SEC. 2100. SHORT TITLE.**

22 *This subtitle may be cited as the “Multifamily Assisted*  
 23 *Housing Reform and Affordability Act of 1997”.*

1 ***Part 1—FHA-Insured Multifamily Housing Mortgage***  
2 ***and Housing Assistance Restructuring***

3 ***SEC. 2101. FINDINGS AND PURPOSES.***

4 *(a) FINDINGS.—Congress finds that—*

5 *(1) there exists throughout the Nation a need for*  
6 *decent, safe, and affordable housing;*

7 *(2) as of the date of enactment of this Act, it is*  
8 *estimated that—*

9 *(A) the insured multifamily housing port-*  
10 *folio of the Federal Housing Administration con-*  
11 *sists of 14,000 rental properties, with an aggre-*  
12 *gate unpaid principal mortgage balance of*  
13 *\$38,000,000,000; and*

14 *(B) approximately 10,000 of these prop-*  
15 *erties contain housing units that are assisted*  
16 *with project-based rental assistance under section*  
17 *8 of the United States Housing Act of 1937;*

18 *(3) FHA-insured multifamily rental properties*  
19 *are a major Federal investment, providing affordable*  
20 *rental housing to an estimated 2,000,000 low- and*  
21 *very low-income families;*

22 *(4) approximately 1,600,000 of these families*  
23 *live in dwelling units that are assisted with project-*  
24 *based rental assistance under section 8 of the United*  
25 *States Housing Act of 1937;*

1           (5) a substantial number of housing units receiv-  
2           ing project-based assistance have rents that are higher  
3           than the rents of comparable, unassisted rental units  
4           in the same housing rental market;

5           (6) many of the contracts for project-based assist-  
6           ance will expire during the several years following the  
7           date of enactment of this Act;

8           (7) it is estimated that—

9           (A) if no changes in the terms and condi-  
10           tions of the contracts for project-based assistance  
11           are made before fiscal year 2000, the cost of re-  
12           newing all expiring rental assistance contracts  
13           under section 8 of the United States Housing Act  
14           of 1937 for both project-based and tenant-based  
15           rental assistance will increase from approxi-  
16           mately \$3,600,000,000 in fiscal year 1997 to  
17           over \$14,300,000,000 by fiscal year 2000 and  
18           some \$22,400,000,000 in fiscal year 2006;

19           (B) of those renewal amounts, the cost of re-  
20           newing project-based assistance will increase  
21           from \$1,200,000,000 in fiscal year 1997 to al-  
22           most \$7,400,000,000 by fiscal year 2006; and

23           (C) without changes in the manner in  
24           which project-based rental assistance is provided,  
25           renewals of expiring contracts for project-based

1           *rental assistance will require an increasingly*  
2           *larger portion of the discretionary budget au-*  
3           *thority of the Department of Housing and Urban*  
4           *Development in each subsequent fiscal year for*  
5           *the foreseeable future;*

6           *(8) absent new budget authority for the renewal*  
7           *of expiring rental contracts for project-based assist-*  
8           *ance, many of the FHA-insured multifamily housing*  
9           *projects that are assisted with project-based assistance*  
10          *will likely default on their FHA-insured mortgage*  
11          *payments, resulting in substantial claims to the FHA*  
12          *General Insurance Fund and Special Risk Insurance*  
13          *Funds;*

14          *(9) more than 15 percent of federally assisted*  
15          *multifamily housing projects are physically or finan-*  
16          *cially distressed, including a number which suffer*  
17          *from mismanagement;*

18          *(10) due to Federal budget constraints, the*  
19          *downsizing of the Department of Housing and Urban*  
20          *Development, and diminished administrative capac-*  
21          *ity, the Department lacks the ability to ensure the*  
22          *continued economic and physical well-being of the*  
23          *stock of federally insured and assisted multifamily*  
24          *housing projects; and*

1           (11) *the economic, physical, and management*  
2 *problems facing the stock of federally insured and as-*  
3 *sisted multifamily housing projects will be best served*  
4 *by reforms that—*

5           (A) *reduce the cost of Federal rental assist-*  
6 *ance, including project-based assistance, to these*  
7 *projects by reducing the debt service and operat-*  
8 *ing costs of these projects while retaining the*  
9 *low-income affordability and availability of this*  
10 *housing;*

11           (B) *address physical and economic distress*  
12 *of this housing and the failure of some project*  
13 *managers and owners of projects to comply with*  
14 *management and ownership rules and require-*  
15 *ments; and*

16           (C) *transfer and share many of the loan*  
17 *and contract administration functions and re-*  
18 *sponsibilities of the Secretary with capable State,*  
19 *local, and other entities.*

20 (b) *PURPOSES.—The purposes of this part are—*

21           (1) *to preserve low-income rental housing afford-*  
22 *ability and availability while reducing the long-term*  
23 *costs of project-based assistance;*

24           (2) *to reform the design and operation of Federal*  
25 *rental housing assistance programs, administered by*

1        *the Secretary, to promote greater multifamily housing*  
2        *project operating and cost efficiencies;*

3            *(3) to encourage owners of eligible multifamily*  
4        *housing projects to restructure their FHA-insured*  
5        *mortgages and project-based assistance contracts in a*  
6        *manner that is consistent with this part before the*  
7        *year in which the contract expires;*

8            *(4) to streamline and improve federally insured*  
9        *and assisted multifamily housing project oversight*  
10       *and administration;*

11           *(5) to resolve the problems affecting financially*  
12       *and physically troubled federally insured and assisted*  
13       *multifamily housing projects through cooperation*  
14       *with residents, owners, State and local governments,*  
15       *and other interested entities and individuals; and*

16           *(6) to grant additional enforcement tools to use*  
17       *against those who violate agreements and program re-*  
18       *quirements, in order to ensure that the public interest*  
19       *is safeguarded and that Federal multifamily housing*  
20       *programs serve their intended purposes.*

21 **SEC. 2102. DEFINITIONS.**

22        *In this part:*

23            *(1) COMPARABLE PROPERTIES.—The term “com-*  
24       *parable properties” means properties that are—*

1           (A) similar to the eligible multifamily hous-  
2           ing project in neighborhood (including risk of  
3           crime), location, access, street appeal, age, prop-  
4           erty size, apartment mix, physical configuration,  
5           property and unit amenities, and utilities;

6           (B) unregulated by contractual encum-  
7           brances or local rent-control laws; and

8           (C) occupied predominantly by renters who  
9           receive no rent supplements or rental assistance.

10          (2)     *ELIGIBLE MULTIFAMILY HOUSING*  
11          *PROJECT.*—The term “eligible multifamily housing  
12          project” means a property consisting of more than 4  
13          dwelling units—

14               (A) with rents which, on an average per  
15               unit or per room basis, exceed the fair market  
16               rent or the rent of comparable properties in the  
17               same market area, as determined by the Sec-  
18               retary;

19               (B) that is covered in whole or in part by  
20               a contract for project-based assistance under—

21                       (i) the new construction and substan-  
22                       tial rehabilitation program under section  
23                       8(b)(2) of the United States Housing Act of  
24                       1937 (as in effect before October 1, 1983);

1           (ii) the property disposition program  
2           under section 8(b) of the United States  
3           Housing Act of 1937;

4           (iii) the moderate rehabilitation pro-  
5           gram under section 8(e)(2) of the United  
6           States Housing Act of 1937;

7           (iv) the loan management assistance  
8           program under section 8 of the United  
9           States Housing Act of 1937;

10          (v) section 23 of the United States  
11          Housing Act of 1937 (as in effect before  
12          January 1, 1975);

13          (vi) the rent supplement program  
14          under section 101 of the Housing and  
15          Urban Development Act of 1965; or

16          (vii) section 8 of the United States  
17          Housing Act of 1937, following conversion  
18          from assistance under section 101 of the  
19          Housing and Urban Development Act of  
20          1965; and

21          (C) financed by a mortgage insured or held  
22          by the Secretary under the National Housing  
23          Act.

24          (3) *EXPIRING CONTRACT*.—The term “expiring  
25          contract” means a project-based assistance contract

1        *attached to an eligible multifamily housing project*  
2        *which, under the terms of the contract, will expire.*

3            (4) *EXPIRATION DATE.*—*The term “expiration*  
4        *date” means the date on which an expiring contract*  
5        *expires.*

6            (5) *FAIR MARKET RENT.*—*The term “fair market*  
7        *rent” means the fair market rental established under*  
8        *section 8(c) of the United States Housing Act of 1937.*

9            (6) *LOW-INCOME FAMILIES.*—*The term “low-in-*  
10       *come families” has the same meaning as provided*  
11       *under section 3(b)(2) of the United States Housing*  
12       *Act of 1937.*

13           (7) *PORTFOLIO RESTRUCTURING AGREEMENT.*—  
14       *The term “Portfolio restructuring agreement” means*  
15       *the agreement entered into between the Secretary and*  
16       *a participating administrative entity, as provided*  
17       *under section 2103.*

18           (8) *PARTICIPATING ADMINISTRATIVE ENTITY.*—  
19       *The term “participating administrative entity”*  
20       *means a public agency, including a State housing fi-*  
21       *nance agency or local housing agency, which meets*  
22       *the requirements under section 2103(b).*

23           (9) *PROJECT-BASED ASSISTANCE.*—*The term*  
24       *“project-based assistance” means rental assistance*  
25       *under section 8 of the United States Housing Act of*

1     1937 that is attached to a multifamily housing  
2     project.

3           (10) *RENEWAL*.—The term “renewal” means the  
4     replacement of an expiring Federal rental contract  
5     with a new contract under section 8 of the United  
6     States Housing Act of 1937, consistent with the re-  
7     quirements of this part.

8           (11) *SECRETARY*.—The term “Secretary” means  
9     the Secretary of Housing and Urban Development.

10          (12) *STATE*.—The term “State” has the same  
11     meaning as in section 104 of the Cranston-Gonzalez  
12     National Affordable Housing Act.

13          (13) *TENANT-BASED ASSISTANCE*.—The term  
14     “tenant-based assistance” has the same meaning as in  
15     section 8(f) of the United States Housing Act of 1937.

16          (14) *UNIT OF GENERAL LOCAL GOVERNMENT*.—  
17     The term “unit of general local government” has the  
18     same meaning as in section 104 of the Cranston-Gon-  
19     zalez National Affordable Housing Act.

20          (15) *VERY LOW-INCOME FAMILY*.—The term  
21     “very low-income family” has the same meaning as  
22     in section 3(b) of the United States Housing Act of  
23     1937.

24          (16) *QUALIFIED MORTGAGEE*.—The term “quali-  
25     fied mortgagee” means an entity approved by the Sec-

1        *retary that is capable of servicing, as well as origi-*  
 2        *nating, FHA-insured mortgages, and that—*

3                *(A) is not suspended or debarred by the Sec-*  
 4        *retary;*

5                *(B) is not suspended or on probation im-*  
 6        *posed by the Mortgage Review Board;*

7                *(C) is not in default under any Government*  
 8        *National Mortgage Association obligation; and*

9                *(D) meets previous participation require-*  
 10        *ments.*

11 **SEC. 2103. AUTHORITY OF PARTICIPATING ADMINISTRA-**  
 12                **TIVE ENTITIES.**

13        *(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—*

14                *(1) IN GENERAL.—The Secretary shall enter into*  
 15        *portfolio restructuring agreements with participating*  
 16        *administrative entities for the implementation of*  
 17        *mortgage restructuring and rental assistance suffi-*  
 18        *ciency plans to restructure FHA-insured multifamily*  
 19        *housing mortgages, in order to—*

20                *(A) reduce the costs of current and expiring*  
 21        *contracts for assistance under section 8 of the*  
 22        *United States Housing Act of 1937;*

23                *(B) address financially and physically trou-*  
 24        *bled projects; and*

1           (C) correct management and ownership de-  
2           ficiencies.

3           (2) *PORTFOLIO RESTRUCTURING AGREEMENTS.*—Each portfolio restructuring agreement en-  
4           tered into under this subsection shall—

6           (A) be a cooperative agreement to establish  
7           the obligations and requirements between the  
8           Secretary and the participating administrative  
9           entity;

10          (B) identify the eligible multifamily hous-  
11          ing projects or groups of projects for which the  
12          participating administrative entity is respon-  
13          sible for assisting in developing and implement-  
14          ing approved mortgage restructuring and rental  
15          assistance sufficiency plans under section 2104;

16          (C) require the participating administrative  
17          entity to review and certify to the accuracy and  
18          completeness of a comprehensive needs assessment  
19          submitted by the owner of an eligible multifam-  
20          ily housing project, in accordance with the infor-  
21          mation and data requirements of section 403 of  
22          the Housing and Community Development Act of  
23          1992, including such other data, information,  
24          and requirements as the Secretary may require

1           to be included as part of the comprehensive needs  
2           assessment;

3           (D) identify the responsibilities of both the  
4           participating administrative entity and the Sec-  
5           retary in implementing a mortgage restructuring  
6           and rental assistance sufficiency plan, including  
7           any actions proposed to be taken under section  
8           2106 or 2107;

9           (E) require each mortgage restructuring  
10          and rental assistance sufficiency plan to be pre-  
11          pared in accordance with the requirements of  
12          section 2104 for each eligible multifamily hous-  
13          ing project;

14          (F) indemnify the participating adminis-  
15          trative entity against lawsuits and penalties for  
16          actions taken pursuant to the agreement, exclud-  
17          ing actions involving gross negligence or willful  
18          misconduct; and

19          (G) include compensation for all reasonable  
20          expenses incurred by the participating adminis-  
21          trative entity necessary to perform its duties  
22          under this part, including such incentives as  
23          may be authorized under section 2108.

24          (b) *SELECTION OF PARTICIPATING ADMINISTRATIVE*  
25          *ENTITY.*—

1           (1) *SELECTION CRITERIA.*—*The Secretary shall*  
2 *select a participating administrative entity based on*  
3 *the following criteria—*

4                   (A) *is located in the State or local jurisdic-*  
5 *tion in which the eligible multifamily housing*  
6 *project or projects are located;*

7                   (B) *has demonstrated expertise in the devel-*  
8 *opment or management of low-income affordable*  
9 *rental housing;*

10                  (C) *has a history of stable, financially*  
11 *sound, and responsible administrative perform-*  
12 *ance;*

13                  (D) *has demonstrated financial strength in*  
14 *terms of asset quality, capital adequacy, and li-*  
15 *quidity; and*

16                  (E) *is otherwise qualified, as determined by*  
17 *the Secretary, to carry out the requirements of*  
18 *this part.*

19           (2) *SELECTION OF MORTGAGE RISK-SHARING EN-*  
20 *TITIES AND FISCAL YEAR 1997 MULTIFAMILY DEM-*  
21 *ONSTRATION AUTHORITY.*—*Any State housing finance*  
22 *agency or local housing agency that is designated as*  
23 *a qualified participating entity under section 542 of*  
24 *the Housing and Community Development Act of*  
25 *1992 or under section 212 of Public Law 104–204,*

1       *shall automatically qualify as a participating admin-*  
2       *istrative entity under this section.*

3               (3) *ALTERNATIVE ADMINISTRATORS.—With re-*  
4       *spect to any eligible multifamily housing project that*  
5       *is located in a State or local jurisdiction in which the*  
6       *Secretary determines that a participating adminis-*  
7       *trative entity is not located, is unavailable, or does*  
8       *not qualify, the Secretary shall either—*

9               (A) *carry out the requirements of this part*  
10       *with respect to that eligible multifamily housing*  
11       *project; or*

12              (B) *contract with other qualified entities*  
13       *that meet the requirements of subsection (b), with*  
14       *the exception of subsection (b)(1)(A), the author-*  
15       *ity to carry out all or a portion of the require-*  
16       *ments of this part with respect to that eligible*  
17       *multifamily housing project.*

18              (4) *PREFERENCE FOR PUBLIC HOUSING FINANCE*  
19       *AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTI-*  
20       *TIES.—In selecting participating administrative enti-*  
21       *ties under this subsection, the Secretary shall give*  
22       *preference to State housing finance agencies and local*  
23       *housing agencies.*

24              (5) *STATE AND LOCAL PORTFOLIO REQUIRE-*  
25       *MENTS.—*

1           (A) *IN GENERAL.*—*If the housing finance*  
2           *agency of a State is selected as the participating*  
3           *administrative entity, that agency shall be re-*  
4           *sponsible for all eligible multifamily housing*  
5           *projects in that State, except that a local housing*  
6           *agency selected as a participating administrative*  
7           *entity shall be responsible for all eligible multi-*  
8           *family housing projects in the jurisdiction of the*  
9           *agency.*

10           (B) *RIGHT OF FIRST REFUSAL.*—*A partici-*  
11           *parting State housing finance agency or local*  
12           *housing agency shall have the right of first re-*  
13           *fusal to assume responsibility for any properties*  
14           *it has financed.*

15           (C) *DELEGATION.*—*A participating admin-*  
16           *istrative entity may delegate or transfer respon-*  
17           *sibilities and functions under this part to one or*  
18           *more interested and qualified public entities.*

19           (D) *WAIVER.*—*A State housing finance*  
20           *agency or local housing agency may request a*  
21           *waiver from the Secretary from the requirements*  
22           *of subparagraph (A) for good cause.*

23 **SEC. 2104. MORTGAGE RESTRUCTURING AND RENTAL AS-**  
24 **SISTANCE SUFFICIENCY PLAN.**

25           (a) *IN GENERAL.*—

1           (1) *DEVELOPMENT OF PROCEDURES AND RE-*  
2           *QUIREMENTS.*—*The Secretary shall develop proce-*  
3           *dures and requirements for the submission of a mort-*  
4           *gage restructuring and rental assistance sufficiency*  
5           *plan for each eligible multifamily housing project*  
6           *with an expiring contract.*

7           (2) *TERMS AND CONDITIONS.*—*Each mortgage*  
8           *restructuring and rental assistance sufficiency plan*  
9           *submitted under this subsection shall be developed at*  
10          *the initiative of an owner of an eligible multifamily*  
11          *housing project, in cooperation with the qualified*  
12          *mortgagee servicing the loan, with a participating*  
13          *administrative entity, under such terms and condi-*  
14          *tions as the Secretary shall require.*

15          (3) *CONSOLIDATION.*—*Mortgage restructuring*  
16          *and rental assistance sufficiency plans submitted*  
17          *under this subsection may be consolidated as part of*  
18          *an overall strategy for more than one property.*

19          (b) *NOTICE REQUIREMENTS.*—*The Secretary shall es-*  
20          *tablish notice procedures and hearing requirements for ten-*  
21          *ants and owners concerning the dates for the expiration of*  
22          *project-based assistance contracts for any eligible multifam-*  
23          *ily housing project.*

24          (c) *EXTENSION OF CONTRACT TERM.*—*Subject to*  
25          *agreement by a project owner, the Secretary may extend*

1 *the term of any expiring contract or provide a section 8*  
2 *contract with rent levels set in accordance with subsection*  
3 *(g) for a period sufficient to facilitate the implementation*  
4 *of a mortgage restructuring and rental assistance suffi-*  
5 *ciency plan, as determined by the Secretary.*

6       *(d) TENANT RENT PROTECTION.—If the owner of a*  
7 *project with an expiring Federal rental assistance contract*  
8 *does not agree to extend the contract, not less than 12*  
9 *months prior to terminating the contract, the project owner*  
10 *shall provide written notice to the Secretary and the tenants*  
11 *and the Secretary shall make tenant-based assistance avail-*  
12 *able to tenants residing in units assisted under the expiring*  
13 *contract at the time of expiration.*

14       *(e) MORTGAGE RESTRUCTURING AND RENTAL ASSIST-*  
15 *ANCE SUFFICIENCY PLAN.—Each mortgage restructuring*  
16 *and rental assistance sufficiency plan shall—*

17               *(1) except as otherwise provided, restructure the*  
18               *project-based assistance rents for the eligible multi-*  
19               *family housing project in a manner consistent with*  
20               *subsection (g);*

21               *(2) allow for rent adjustments by applying an*  
22               *operating cost adjustment factor established under*  
23               *guidelines established by the Secretary;*

24               *(3) require the owner or purchaser of an eligible*  
25               *multifamily housing project with an expiring con-*

1        *tract to submit to the participating administrative*  
2        *entity a comprehensive needs assessment, in accord-*  
3        *ance with the information and data requirements of*  
4        *section 403 of the Housing and Community Develop-*  
5        *ment Act of 1992, including such other data, informa-*  
6        *tion, and requirements as the Secretary may require*  
7        *to be included as part of the comprehensive needs as-*  
8        *essment;*

9            *(4) require the owner or purchaser of the project*  
10        *to provide or contract for competent management of*  
11        *the project;*

12            *(5) require the owner or purchaser of the project*  
13        *to take such actions as may be necessary to rehabili-*  
14        *tate, maintain adequate reserves, and to maintain the*  
15        *project in decent and safe condition, based on housing*  
16        *quality standards established by—*

17            *(A) the Secretary; or*

18            *(B) local housing codes or codes adopted by*  
19        *public housing agencies that—*

20            *(i) meet or exceed housing quality*  
21        *standards established by the Secretary; and*

22            *(ii) do not severely restrict housing*  
23        *choice;*

24            *(6) require the owner or purchaser of the project*  
25        *to maintain affordability and use restrictions for the*

1 remaining term of the existing mortgage and, if ap-  
2 plicable, the remaining term of the second mortgage,  
3 as the participating administrative entity determines  
4 to be appropriate and consistent with the rent levels  
5 established under subsection (g), which restrictions  
6 shall be consistent with the long-term physical and fi-  
7 nancial viability character of the project as affordable  
8 housing;

9 (7) meet subsidy layering requirements under  
10 guidelines established by the Secretary;

11 (8) require the owner or purchaser of the project  
12 to meet such other requirements as the Secretary de-  
13 termines to be appropriate; and

14 (9) prohibit the owner from refusing to lease any  
15 available dwelling unit to a recipient of tenant-based  
16 assistance under section 8 of the United States Hous-  
17 ing Act of 1937.

18 (f) *TENANT AND COMMUNITY PARTICIPATION AND CA-*  
19 *PACITY BUILDING.*—

20 (1) *PROCEDURES.*—

21 (A) *IN GENERAL.*—*The Secretary shall es-*  
22 *tablish procedures to provide an opportunity for*  
23 *tenants of the project and other affected parties,*  
24 *including local government and the community*  
25 *in which the project is located, to participate ef-*

1           *fectively in the restructuring process established*  
2           *by this part.*

3           (B) *CRITERIA.—These procedures shall in-*  
4           *clude—*

5                     *(i) the rights to timely and adequate*  
6                     *written notice of the proposed decisions of*  
7                     *the owner or the Secretary or participating*  
8                     *administrative entity;*

9                     *(ii) timely access to all relevant infor-*  
10                    *mation (except for information determined*  
11                    *to be proprietary under standards estab-*  
12                    *lished by the Secretary);*

13                    *(iii) an adequate period to analyze this*  
14                    *information and provide comments to the*  
15                    *Secretary or participating administrative*  
16                    *entity (which comments shall be taken into*  
17                    *consideration by the participating adminis-*  
18                    *trative entity); and*

19                    *(iv) if requested, a meeting with a rep-*  
20                    *resentative of the participating administra-*  
21                    *tive entity and other affected parties.*

22           (2) *PROCEDURES REQUIRED.—The procedures*  
23           *established under paragraph (1) shall permit tenant,*  
24           *local government, and community participation in at*

1       *least the following decisions or plans specified in this*  
2       *part:*

3               *(A) The Portfolio Restructuring Agreement.*

4               *(B) Any proposed expiration of the section*  
5       *8 contract.*

6               *(C) The project's eligibility for restructuring*  
7       *pursuant to section 2106 and the mortgage re-*  
8       *structuring and rental assistance sufficiency*  
9       *plan pursuant to section 2104.*

10              *(D) Physical inspections.*

11              *(E) Capital needs and management assess-*  
12       *ments, whether before or after restructuring.*

13              *(F) Any proposed transfer of the project.*

14       (3) *FUNDING.—*

15              *(A) IN GENERAL.—The Secretary may pro-*  
16       *vide not more than \$10,000,000 annually in*  
17       *funding to tenant groups, nonprofit organiza-*  
18       *tions, and public entities for building the capac-*  
19       *ity of tenant organizations, for technical assist-*  
20       *ance in furthering any of the purposes of this*  
21       *part (including transfer of developments to new*  
22       *owners) and for tenant services, from those*  
23       *amounts made available under appropriations*  
24       *Acts for implementing this part.*

1           (B) *ALLOCATION.*—*The Secretary may allo-*  
2           *cate any funds made available under subpara-*  
3           *graph (A) through existing technical assistance*  
4           *programs pursuant to any other Federal law, in-*  
5           *cluding the Low-Income Housing Preservation*  
6           *and Resident Homeownership Act of 1990 and*  
7           *the Multifamily Property Disposition Reform*  
8           *Act of 1994.*

9           (C) *PROHIBITION.*—*None of the funds made*  
10           *available under subparagraph (A) may be used*  
11           *directly or indirectly to pay for any personal*  
12           *service, advertisement, telegram, telephone, letter,*  
13           *printed or written matter, or other device, in-*  
14           *tended or designed to influence in any manner*  
15           *a Member of Congress, to favor or oppose, by vote*  
16           *or otherwise, any legislation or appropriation by*  
17           *Congress, whether before or after the introduction*  
18           *of any bill or resolution proposing such legisla-*  
19           *tion or appropriation.*

20           (g) *RENT LEVELS.*—

21           (1) *IN GENERAL.*—*Except as provided in para-*  
22           *graph (2), each mortgage restructuring and rental as-*  
23           *istance sufficiency plan pursuant to the terms, con-*  
24           *ditions, and requirements of this part shall establish*  
25           *for units assisted with project-based assistance in eli-*

1        *gible multifamily housing projects adjusted rent levels*  
2        *that—*

3                *(A) are equivalent to rents derived from*  
4        *comparable properties, if—*

5                        *(i) the participating administrative*  
6                        *entity makes the rent determination not*  
7                        *later than 120 days after the owner submits*  
8                        *a mortgage restructuring and rental assist-*  
9                        *ance sufficiency plan; and*

10                      *(ii) the market rent determination is*  
11                      *based on not less than 2 comparable prop-*  
12                      *erties; or*

13                *(B) if those rents cannot be determined, are*  
14        *equal to 90 percent of the fair market rents for*  
15        *the relevant market area.*

16        *(2) EXCEPTIONS.—*

17                      *(A) IN GENERAL.—A contract under this*  
18        *section may include rent levels that exceed the*  
19        *rent level described in paragraph (1) at rent lev-*  
20        *els that do not exceed 120 percent of the local*  
21        *fair market rent if the participating administra-*  
22        *tive entity—*

23                      *(i) determines, that the housing needs*  
24                      *of the tenants and the community cannot be*  
25                      *adequately addressed through implementa-*

1            *tion of the rent limitation required to be es-*  
2            *tablished through a mortgage restructuring*  
3            *and rental assistance sufficiency plan under*  
4            *paragraph (1); and*

5            *(ii) follows the procedures under para-*  
6            *graph (3).*

7            *(B) EXCEPTION RENTS.—In any fiscal*  
8            *year, a participating administrative entity may*  
9            *approve exception rents on not more than 20*  
10           *percent of all units in the geographic jurisdiction*  
11           *of the entity with expiring contracts in that fis-*  
12           *cal year, except that the Secretary may waive*  
13           *this ceiling upon a finding of special need in the*  
14           *geographic area served by the participating ad-*  
15           *ministrative entity.*

16           *(3) RENT LEVELS FOR EXCEPTION PROJECTS.—*  
17           *For purposes of this section, a project eligible for an*  
18           *exception rent shall receive a rent calculation on the*  
19           *actual and projected costs of operating the project, at*  
20           *a level that provides income sufficient to support a*  
21           *budget-based rent that consists of—*

22           *(A) the debt service of the project;*

23           *(B) the operating expenses of the project, as*  
24           *determined by the participating administrative*  
25           *entity, including—*

- 1                   (i) contributions to adequate reserves;
- 2                   (ii) the costs of maintenance and nec-
- 3                   essary rehabilitation; and
- 4                   (iii) other eligible costs permitted
- 5                   under section 8 of the United States Hous-
- 6                   ing Act of 1937;
- 7                   (C) an adequate allowance for potential op-
- 8                   erating losses due to vacancies and failure to col-
- 9                   lect rents, as determined by the participating ad-
- 10                  ministrative entity;
- 11                  (D) an allowance for a reasonable rate of
- 12                  return to the owner or purchaser of the project,
- 13                  as determined by the participating administra-
- 14                  tive entity, which may be established to provide
- 15                  incentives for owners or purchasers to meet
- 16                  benchmarks of quality for management and
- 17                  housing quality; and
- 18                  (E) other expenses determined by the par-
- 19                  ticipating administrative entity to be necessary
- 20                  for the operation of the project.
- 21                  (h) *EXEMPTIONS FROM RESTRUCTURING.*—Subject to
- 22                  section 2106, the Secretary shall renew project-based assist-
- 23                  ance contracts at existing rents, or at a level that provides
- 24                  income sufficient to support a budget-based rent (including

1 a budget-based rent adjustment if justified by reasonable  
2 and expected operating expenses), if—

3 (1) the project was financed through obligations  
4 such that the implementation of a mortgage restruc-  
5 turing and rental assistance sufficiency plan under  
6 this section is inconsistent with applicable law or  
7 agreements governing such financing;

8 (2) in the determination of the Secretary or the  
9 participating administrative entity, the restructuring  
10 would not result in significant section 8 savings to  
11 the Secretary; or

12 (3) the project has an expiring contract under  
13 section 8 of the United States Housing Act of 1937  
14 but does not qualify as an eligible multifamily hous-  
15 ing project pursuant to section 2102(2) of this part.

16 **SEC. 2105. SECTION 8 RENEWALS AND LONG-TERM AFFORD-**  
17 **ABILITY COMMITMENT BY OWNER OF**  
18 **PROJECT.**

19 (a) **SECTION 8 RENEWALS OF RESTRUCTURED**  
20 **PROJECTS.**—Subject to the availability of amounts pro-  
21 vided in advance in appropriations Acts, the Secretary  
22 shall enter into contracts with participating administrative  
23 entities pursuant to which the participating administrative  
24 entity shall offer to renew or extend an expiring section 8  
25 contract on an eligible multifamily housing project, and the

1 owner of the project shall accept the offer, provided the ini-  
2 tial renewal is in accordance with the terms and conditions  
3 specified in the mortgage restructuring and rental assist-  
4 ance sufficiency plan.

5 (b) *REQUIRED COMMITMENT.*—After the initial re-  
6 newal of a section 8 contract pursuant to this section, the  
7 owner shall accept each offer made pursuant to subsection  
8 (a) to renew the contract, for the remaining term of the  
9 existing mortgage and, if applicable, the remaining term  
10 of an existing second mortgage, if the offer to renew is on  
11 terms and conditions specified in the mortgage restructur-  
12 ing and rental assistance sufficiency plan.

13 **SEC. 2106. PROHIBITION ON RESTRUCTURING.**

14 (a) *PROHIBITION ON RESTRUCTURING.*—The Sec-  
15 retary shall not consider any mortgage restructuring and  
16 rental assistance sufficiency plan or request for contract re-  
17 newal if the participating administrative entity determines  
18 that—

19 (1) the owner or purchaser of the project has en-  
20 gaged in material adverse financial or managerial ac-  
21 tions or omissions with regard to this project (or with  
22 regard to other similar projects if the Secretary deter-  
23 mines that those actions or omissions constitute a  
24 pattern of mismanagement that would warrant sus-  
25 pension or debarment by the Secretary), including—

1           (A) materially violating any Federal, State,  
2 or local law or regulation with regard to this  
3 project or any other federally assisted project,  
4 after receipt of notice and an opportunity to  
5 cure;

6           (B) materially breaching a contract for as-  
7 sistance under section 8 of the United States  
8 Housing Act of 1937, after receipt of notice and  
9 an opportunity to cure;

10          (C) materially violating any applicable reg-  
11 ulatory or other agreement with the Secretary or  
12 a participating administrative entity, after re-  
13 ceipt of notice and an opportunity to cure;

14          (D) repeatedly and materially violating  
15 any Federal, State, or local law or regulation  
16 with regard to the project or any other federally  
17 assisted project;

18          (E) repeatedly and materially breaching a  
19 contract for assistance under section 8 of the  
20 United States Housing Act of 1937;

21          (F) repeatedly and materially violating any  
22 applicable regulatory or other agreement with  
23 the Secretary or a participating administrative  
24 entity;

1           (G) repeatedly failing to make mortgage  
2           payments at times when project income was suf-  
3           ficient to maintain and operate the property;

4           (H) materially failing to maintain the  
5           property according to housing quality standards  
6           after receipt of notice and a reasonable oppor-  
7           tunity to cure; or

8           (I) committing any actions or omissions  
9           that would warrant suspension or debarment by  
10          the Secretary;

11          (2) the owner or purchaser of the property mate-  
12          rially failed to follow the procedures and requirements  
13          of this part, after receipt of notice and an oppor-  
14          tunity to cure; or

15          (3) the poor condition of the project cannot be  
16          remedied in a cost effective manner, as determined by  
17          the participating administrative entity.

18          (b) *OPPORTUNITY TO DISPUTE FINDINGS.*—

19               (1) *IN GENERAL.*—During the 30-day period be-  
20               ginning on the date on which the owner or purchaser  
21               of an eligible multifamily housing project receives no-  
22               tice of a rejection under subsection (a) or of a mort-  
23               gage restructuring and rental assistance sufficiency  
24               plan under section 2104, the Secretary or participat-  
25               ing administrative entity shall provide that owner or

1        *purchaser with an opportunity to dispute the basis*  
2        *for the rejection and an opportunity to cure.*

3            (2) *AFFIRMATION, MODIFICATION, OR REVER-*  
4        *SAL.—*

5            (A) *IN GENERAL.—After providing an op-*  
6        *portunity to dispute under paragraph (1), the*  
7        *Secretary or the participating administrative*  
8        *entity may affirm, modify, or reverse any rejec-*  
9        *tion under subsection (a) or rejection of a mort-*  
10       *gage restructuring and rental assistance suffi-*  
11       *ciency plan under section 2104.*

12           (B) *REASONS FOR DECISION.—The Sec-*  
13        *retary or the participating administrative en-*  
14        *tity, as applicable, shall identify the reasons for*  
15        *any final decision under this paragraph.*

16           (C) *REVIEW PROCESS.—The Secretary shall*  
17        *establish an administrative review process to ap-*  
18        *peal any final decision under this paragraph.*

19           (c) *FINAL DETERMINATION.—Any final determination*  
20        *under this section shall not be subject to judicial review.*

21           (d) *DISPLACED TENANTS.—Subject to the availability*  
22        *of amounts provided in advance in appropriations Acts, for*  
23        *any low-income tenant that is residing in a project or re-*  
24        *ceiving assistance under section 8 of the United States*  
25        *Housing Act of 1937 at the time of rejection under this sec-*

1 tion, that tenant shall be provided with tenant-based assist-  
2 ance and reasonable moving expenses, as determined by the  
3 Secretary.

4 (e) *TRANSFER OF PROPERTY.*—For properties dis-  
5 qualified from the consideration of a mortgage restructuring  
6 and rental assistance sufficiency plan under this section be-  
7 cause of actions by an owner or purchaser in accordance  
8 with paragraph (1) or (2) of subsection (a), the Secretary  
9 shall establish procedures to facilitate the voluntary sale or  
10 transfer of a property as part of a mortgage restructuring  
11 and rental assistance sufficiency plan, with a preference for  
12 tenant organizations and tenant-endorsed community-based  
13 nonprofit and public agency purchasers meeting such rea-  
14 sonable qualifications as may be established by the Sec-  
15 retary, which purchasers shall be eligible to receive project-  
16 based assistance under section 8 of the United States Hous-  
17 ing Act of 1937.

18 **SEC. 2107. RESTRUCTURING TOOLS.**

19 (a) *RESTRUCTURING TOOLS.*—In this part, and to the  
20 extent these actions are consistent with this section, an ap-  
21 proved mortgage restructuring and rental assistance suffi-  
22 ciency plan may include one or more of the following:

23 (1) *FULL OR PARTIAL PAYMENT OF CLAIM.*—  
24 Making a full payment of claim or partial payment  
25 of claim under section 541(b) of the National Housing

1     *Act. Any payment under this paragraph shall not re-*  
2     *quire the approval of a mortgagee.*

3             (2) *REFINANCING OF DEBT.—Refinancing of all*  
4     *or part of the debt on a project, if the refinancing*  
5     *would result in significant subsidy savings under sec-*  
6     *tion 8 of the United States Housing Act of 1937.*

7             (3) *MORTGAGE INSURANCE.—Providing FHA*  
8     *multifamily mortgage insurance, reinsurance or other*  
9     *credit enhancement alternatives, including multifam-*  
10    *ily risk-sharing mortgage programs, as provided*  
11    *under section 542 of the Housing and Community*  
12    *Development Act of 1992. Any limitations on the*  
13    *number of units available for mortgage insurance*  
14    *under section 542 shall not apply to eligible multi-*  
15    *family housing projects. Any credit subsidy costs of*  
16    *providing mortgage insurance shall be paid from the*  
17    *General Insurance Fund and the Special Risk Insur-*  
18    *ance Fund.*

19            (4) *CREDIT ENHANCEMENT.—Any additional*  
20    *State or local mortgage credit enhancements and risk-*  
21    *sharing arrangements may be established with State*  
22    *or local housing finance agencies, the Federal Hous-*  
23    *ing Finance Board, the Federal National Mortgage*  
24    *Association, and the Federal Home Loan Mortgage*  
25    *Corporation, to a modified first mortgage.*

1           (5) *COMPENSATION OF THIRD PARTIES.*—*Enter-*  
2           *ing into agreements, incurring costs, or making pay-*  
3           *ments, as may be reasonably necessary, to compensate*  
4           *the participation of participating administrative en-*  
5           *tities and other parties in undertaking actions au-*  
6           *thorized by this part. Upon request, participating ad-*  
7           *ministrative entities shall be considered to be contract*  
8           *administrators under section 8 of the United States*  
9           *Housing Act of 1937 for purposes of any contracts en-*  
10          *tered into as part of an approved mortgage restruc-*  
11          *turing and rental assistance sufficiency plan. Subject*  
12          *to the availability of amounts provided in advance in*  
13          *appropriations Acts for administrative fees under sec-*  
14          *tion 8 of the United States Housing Act of 1937, such*  
15          *fees shall be used to compensate participating admin-*  
16          *istrative entities for compliance monitoring costs in-*  
17          *curring under section 2110.*

18          (6) *RESIDUAL RECEIPTS.*—*Applying any ac-*  
19          *quired residual receipts to maintain the long-term af-*  
20          *fordability and physical condition of the property or*  
21          *of other eligible multifamily housing projects. The*  
22          *participating administrative entity may expedite the*  
23          *acquisition of residual receipts by entering into agree-*  
24          *ments with owners of housing covered by an expiring*

1       *contract to provide an owner with a share of the re-*  
2       *ceipts, not to exceed 10 percent.*

3           (7) *REHABILITATION NEEDS.*—*Assisting in ad-*  
4       *ressing the necessary rehabilitation needs of the*  
5       *project, except that assistance under this paragraph*  
6       *shall not exceed the equivalent of \$5,000 per unit for*  
7       *those units covered with project-based assistance. Re-*  
8       *habilitation may be paid from the provision of grants*  
9       *from residual receipts or, as provided in appropria-*  
10       *tions Acts, from budget authority provided for in-*  
11       *creases in the budget authority for assistance con-*  
12       *tracts under section 8 of the United States Housing*  
13       *Act of 1937, the rehabilitation grant program estab-*  
14       *lished under section 2201 of this subtitle, or through*  
15       *the debt restructuring transaction. Each owner that*  
16       *receives rehabilitation assistance shall contribute not*  
17       *less than 25 percent of the amount of rehabilitation*  
18       *assistance received.*

19           (8) *MORTGAGE RESTRUCTURING.*—*Restructuring*  
20       *mortgages to provide a structured first mortgage to*  
21       *cover rents at levels that are established in section*  
22       *2104(g) and a second mortgage equal to the difference*  
23       *between the restructured first mortgage and the mort-*  
24       *gage balance of the eligible multifamily housing*  
25       *project at the time of restructuring. The second mort-*

1        *gage shall bear interest at a rate not to exceed the ap-*  
2        *plicable Federal rate for a term not to exceed 50*  
3        *years. If the first mortgage remains outstanding, pay-*  
4        *ments of interest and principal on the second mort-*  
5        *gage shall be made from a portion of the excess project*  
6        *income only after the payment of all reasonable and*  
7        *necessary operating expenses (including deposits in a*  
8        *reserve for replacement), debt service on the first*  
9        *mortgage, and such other expenditures as may be ap-*  
10       *proved by the Secretary. Such portion shall be equal*  
11       *to not less than 75 percent of excess project income.*  
12       *The participating administrative entity may provide*  
13       *up to 25 percent of the excess project income to the*  
14       *project owner if the participating administrative en-*  
15       *tity determines that the project owner meets bench-*  
16       *marks of quality for management and housing qual-*  
17       *ity. During the period in which the first mortgage re-*  
18       *mains outstanding, no payments of interest or prin-*  
19       *cipal shall be required on the second mortgage. The*  
20       *second mortgage shall be assumable by any subsequent*  
21       *purchaser of any multifamily housing project, pursu-*  
22       *ant to guidelines established by the Secretary. The*  
23       *participating administrative entity may be author-*  
24       *ized to modify the terms or forgive all or part of the*  
25       *second mortgage upon acquisition by a tenant organi-*

1        *zation or tenant-endorsed community-based nonprofit*  
2        *or public agency, pursuant to guidelines established*  
3        *by the Secretary. The principal and accrued interest*  
4        *due under the second mortgage shall be fully payable*  
5        *upon disposition of the property, unless the mortgage*  
6        *is assumed under the preceding sentence. The owner*  
7        *shall begin repayment of the second mortgage upon*  
8        *full payment of the first mortgage in equal monthly*  
9        *installments in an amount equal to the monthly prin-*  
10       *icipal and interest payments formerly paid under the*  
11       *first mortgage. The principal and interest of a second*  
12       *mortgage shall be immediately due and payable upon*  
13       *a finding by the Secretary that an owner has failed*  
14       *to materially comply with this part or any require-*  
15       *ments of the United States Housing Act of 1937 as*  
16       *those requirements apply to the applicable project,*  
17       *after receipt of notice of such failure and a reasonable*  
18       *opportunity to cure such failure. The second mortgage*  
19       *may be a direct obligation of the Secretary or a loan*  
20       *financed through a lender, other than the Secretary.*  
21       *If the second mortgage is a direct obligation of the*  
22       *Secretary, the participating administrative entity*  
23       *shall be authorized in the portfolio restructuring*  
24       *agreement to act as the agent of the Secretary in serv-*  
25       *icing such mortgage and enforcing the rights of the*

1        *Secretary thereunder. Any credit subsidy costs of pro-*  
2        *viding a second mortgage shall be paid from the Gen-*  
3        *eral Insurance Fund and the Special Risk Insurance*  
4        *Fund.*

5        *(b) ROLE OF FNMA AND FHLMC.—Section 1335 of*  
6        *the Federal Housing Enterprises Financial Safety and*  
7        *Soundness Act of 1992 (12 U.S.C. 4565) is amended—*

8                *(1) in paragraph (3), by striking “and” at the*  
9        *end;*

10               *(2) paragraph (4), by striking the period at the*  
11        *end and inserting “; and”;*

12               *(3) by striking “To meet” and inserting the fol-*  
13        *lowing:*

14        *“(a) IN GENERAL.—To meet”; and*

15               *(4) by adding at the end the following:*

16               *“(5) assist in maintaining the affordability of*  
17        *assisted units in eligible multifamily housing projects*  
18        *with expiring contracts, as defined under the Multi-*  
19        *family Assisted Housing Reform and Affordability*  
20        *Act of 1997.*

21        *“(b) AFFORDABLE HOUSING GOALS.—Actions taken*  
22        *under subsection (a)(5) shall constitute part of the contribu-*  
23        *tion of each entity in meeting their affordable housing goals*  
24        *under sections 1332, 1333, and 1334 for any fiscal year,*  
25        *as determined by the Secretary.”.*

1           (c) *PROHIBITION ON EQUITY SHARING BY THE SEC-*  
2 *RETARY.—The Secretary is prohibited from participating*  
3 *in any equity agreement or profit-sharing agreement in*  
4 *conjunction with any eligible multifamily housing project.*

5 **SEC. 2108. SHARED SAVINGS INCENTIVE.**

6           (a) *IN GENERAL.—At the time a participating admin-*  
7 *istrative entity is designated, the Secretary shall negotiate*  
8 *an incentive agreement with the participating administra-*  
9 *tive entity, which agreement shall provide such entity with*  
10 *a share of any principal and interest payments on the sec-*  
11 *ond mortgage. The Secretary shall negotiate with partici-*  
12 *pating administrative entities a savings incentive formula*  
13 *that provides for periodic payments over a period of not*  
14 *less than 5 years, which is allocated as incentives to partici-*  
15 *pating administrative entities.*

16           (b) *USE OF SAVINGS.—Notwithstanding any other*  
17 *provision of law, the incentive agreement under subsection*  
18 *(a) shall require any savings provided to a participating*  
19 *administrative entity under that agreement to be used only*  
20 *for providing decent, safe, and affordable housing for very*  
21 *low-income families and persons with a priority for eligible*  
22 *multifamily housing projects.*

23 **SEC. 2109. MANAGEMENT STANDARDS.**

24           *Each participating administrative entity shall estab-*  
25 *lish and implement management standards, including re-*

1 *quirements governing conflicts of interest between owners,*  
2 *managers, contractors with an identity of interest, pursu-*  
3 *ant to guidelines established by the Secretary and consistent*  
4 *with industry standards.*

5 **SEC. 2110. MONITORING OF COMPLIANCE.**

6       (a) *COMPLIANCE AGREEMENTS.*—Pursuant to regula-  
7 *tions issued by the Secretary after public notice and com-*  
8 *ment, each participating administrative entity, through*  
9 *binding contractual agreements with owners and otherwise,*  
10 *shall ensure long-term compliance with the provisions of*  
11 *this part. Each agreement shall, at a minimum, provide*  
12 *for—*

13               (1) *enforcement of the provisions of this part;*

14       *and*

15               (2) *remedies for the breach of those provisions.*

16       (b) *PERIODIC MONITORING.*—

17               (1) *IN GENERAL.*—Not less than annually, each  
18 *participating administrative entity shall review the*  
19 *status of all multifamily housing projects for which a*  
20 *mortgage restructuring and rental assistance suffi-*  
21 *ciency plan has been implemented.*

22               (2) *INSPECTIONS.*—Each review under this sub-  
23 *section shall include onsite inspection to determine*  
24 *compliance with housing codes and other require-*

1        *ments as provided in this part and the portfolio re-*  
2        *structuring agreements.*

3        *(c) AUDIT BY THE SECRETARY.—The Comptroller*  
4        *General of the United States, the Secretary, and the Inspec-*  
5        *tor General of the Department of Housing and Urban De-*  
6        *velopment may conduct an audit at any time of any multi-*  
7        *family housing project for which a mortgage restructuring*  
8        *and rental assistance sufficiency plan has been imple-*  
9        *mented.*

10    **SEC. 2111. REVIEW.**

11        *(a) ANNUAL REVIEW.—In order to ensure compliance*  
12        *with this part, the Secretary shall conduct an annual re-*  
13        *view and report to Congress on actions taken under this*  
14        *part and the status of eligible multifamily housing projects.*

15        *(b) SUBSIDY LAYERING REVIEW.—The participating*  
16        *administrative entity shall certify, pursuant to guidelines*  
17        *issued by the Secretary, that the requirements of section*  
18        *102(d) of the Department of Housing and Urban Develop-*  
19        *ment Reform Act of 1989 are satisfied so that the combina-*  
20        *tion of assistance provided in connection with a property*  
21        *for which a mortgage is to be restructured shall not be any*  
22        *greater than is necessary to provide affordable housing.*

23    **SEC. 2112. GAO AUDIT AND REVIEW.**

24        *(a) INITIAL AUDIT.—Not later than 18 months after*  
25        *the effective date of interim or final regulations promul-*

1 gated under this part, the Comptroller General of the Unit-  
2 ed States shall conduct an audit to evaluate a representative  
3 sample of all eligible multifamily housing projects and the  
4 implementation of all mortgage restructuring and rental  
5 assistance sufficiency plans.

6 (b) REPORT.—

7 (1) IN GENERAL.—Not later than 18 months  
8 after the audit conducted under subsection (a), the  
9 Comptroller General of the United States shall submit  
10 to Congress a report on the status of all eligible multi-  
11 family housing projects and the implementation of all  
12 mortgage restructuring and rental assistance suffi-  
13 ciency plans.

14 (2) CONTENTS.—The report submitted under  
15 paragraph (1) shall include—

16 (A) a description of the initial audit con-  
17 ducted under subsection (a); and

18 (B) recommendations for any legislative ac-  
19 tion to increase the financial savings to the Fed-  
20 eral Government of the restructuring of eligible  
21 multifamily housing projects balanced with the  
22 continued availability of the maximum number  
23 of affordable low-income housing units.

1 **SEC. 2113. REGULATIONS.**

2       (a) *RULEMAKING AND IMPLEMENTATION.*—*The Sec-*  
3 *retary shall issue interim regulations necessary to imple-*  
4 *ment this part not later than the expiration of the 6-month*  
5 *period beginning on the date of enactment of this Act. Not*  
6 *later than 1 year after the date of enactment of this subtitle,*  
7 *in accordance with the negotiated rulemaking procedures*  
8 *set forth in subchapter III of chapter 5 of title 5, United*  
9 *States Code, the Secretary shall implement final regulations*  
10 *implementing this part.*

11       (b) *REPEAL OF FHA MULTIFAMILY HOUSING DEM-*  
12 *ONSTRATION AUTHORITY.*—

13             (1) *IN GENERAL.*—*Beginning upon the expira-*  
14 *tion of the 6-month period beginning on the date of*  
15 *enactment of this Act, the Secretary may not exercise*  
16 *any authority or take any action under section 210*  
17 *of the Balanced Budget Down Payment Act, II.*

18             (2) *UNUSED BUDGET AUTHORITY.*—*Any unused*  
19 *budget authority under section 210(f) of the Balanced*  
20 *Budget Down Payment Act, II, shall be available for*  
21 *taking actions under the requirements established*  
22 *through regulations issued under subsection (a).*

23 **SEC. 2114. TECHNICAL AND CONFORMING AMENDMENTS.**

24       (a) *CALCULATION OF LIMIT ON PROJECT-BASED AS-*  
25 *SISTANCE.*—*Section 8(d) of the United States Housing Act*

1 of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the  
2 end the following:

3           “(5) *CALCULATION OF LIMIT.*—Any contract en-  
4           tered into under section 2104 of the Multifamily As-  
5           sisted Housing Reform and Affordability Act of 1997  
6           shall be excluded in computing the limit on project-  
7           based assistance under this subsection.”.

8           (b) *PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY*  
9 *HOUSING PROJECTS.*—Section 541 of the National Housing  
10 Act (12 U.S.C. 1735f–19) is amended—

11           (1) in subsection (a), in the subsection heading,  
12           by striking “*AUTHORITY*” and inserting “*DEFAULTED*  
13           *MORTGAGES*”;

14           (2) by redesignating subsection (b) as subsection  
15           (c); and

16           (3) by inserting after subsection (a) the follow-  
17           ing:

18           “(b) *EXISTING MORTGAGES.*—Notwithstanding any  
19 other provision of law, the Secretary, in connection with  
20 a mortgage restructuring under section 2104 of the Multi-  
21 family Assisted Housing Reform and Affordability Act of  
22 1997, may make a one time, nondefault partial payment  
23 of the claim under the mortgage insurance contract, which  
24 shall include a determination by the Secretary or the par-  
25 ticipating administrative entity, in accordance with the

1 *Multifamily Assisted Housing Reform and Affordability*  
2 *Act of 1997, of the market value of the project and a restruc-*  
3 *turing of the mortgage, under such terms and conditions*  
4 *as the Secretary may establish.”.*

5 *(c) REUSE AND RESCISSION OF CERTAIN RECAP-*  
6 *TURED BUDGET AUTHORITY.—Section 8(bb) of the United*  
7 *States Housing Act of 1937 (42 U.S.C. 1437f(b)(b)) is*  
8 *amended to read as follows:*

9 *“(bb) REUSE AND RESCISSION OF CERTAIN RECAP-*  
10 *TURED BUDGET AUTHORITY.—If a project-based assistance*  
11 *contract for an eligible multifamily housing project subject*  
12 *to actions authorized under title I is terminated or amended*  
13 *as part of restructuring under section 107, the Secretary*  
14 *shall recapture the budget authority not required for the ter-*  
15 *minated or amended contract and, without regard to section*  
16 *218 of the Departments of Veterans Affairs and Housing*  
17 *and Urban Development, and Independent Agencies Appro-*  
18 *priations Act of 1997, use such amounts as are necessary*  
19 *to provide housing assistance for the same number of fami-*  
20 *lies covered by such contract for the remaining term of such*  
21 *contract, under a contract providing for project-based or*  
22 *tenant-based assistance. The amount of budget authority*  
23 *saved as a result of the shift to project-based or tenant-based*  
24 *assistance shall be rescinded.”.*

1 **SEC. 2115. TERMINATION OF AUTHORITY.**

2 (a) *IN GENERAL.*—*Except as provided in subsection*  
 3 *(b), this part is repealed effective October 1, 2001.*

4 (b) *EXCEPTION.*—*The repeal under this section does*  
 5 *not apply with respect to projects and programs for which*  
 6 *binding commitments have been entered into before October*  
 7 *1, 2001.*

8 **Part 2—Miscellaneous Provisions**

9 **SEC. 2201. REHABILITATION GRANTS FOR CERTAIN IN-**  
 10 **SURED PROJECTS.**

11 *Section 236 of the National Housing Act (12 U.S.C.*  
 12 *1715z–1) is amended by adding at the end the following:*

13 “(s) *GRANT AUTHORITY.*—

14 “(1) *IN GENERAL.*—*The Secretary may make*  
 15 *grants for the capital costs of rehabilitation to owners*  
 16 *of projects that meet the eligibility and other criteria*  
 17 *set forth in, and in accordance with, this subsection.*

18 “(2) *PROJECT ELIGIBILITY.*—*A project may be*  
 19 *eligible for capital grant assistance under this sub-*  
 20 *section—*

21 “(A) *if—*

22 “(i) *the project was insured under sec-*  
 23 *tion 236 or section 221(d)(3) of the Na-*  
 24 *tional Housing Act; and*

25 “(ii) *the project was assisted by the*  
 26 *loan management assistance program under*

1            *section 8 of the United States Housing Act*  
2            *of 1937 on the date of enactment of the Mul-*  
3            *tifamily Assisted Housing Reform and Af-*  
4            *fordability Act of 1997;*

5            *“(B) if the project owner agrees to maintain*  
6            *the housing quality standards that were in effect*  
7            *immediately prior to the extinguishment of the*  
8            *mortgage insurance;*

9            *“(C) if the Secretary determines that the*  
10           *owner or purchaser of the project has not en-*  
11           *gaged in material adverse financial or manage-*  
12           *rial actions or omissions with regard to this*  
13           *project (or with regard to other similar projects*  
14           *if the Secretary determines that those actions or*  
15           *omissions constitute a pattern of mismanage-*  
16           *ment that would warrant suspension or debar-*  
17           *ment by the Secretary), including—*

18           *“(i) materially violating any Federal,*  
19           *State, or local law or regulation with re-*  
20           *gard to this project or any other federally*  
21           *assisted project, after receipt of notice and*  
22           *an opportunity to cure;*

23           *“(ii) materially breaching a contract*  
24           *for assistance under section 8 of the United*

1                   *States Housing Act of 1937, after receipt of*  
2                   *notice and an opportunity to cure;*

3                   “(iii) materially violating any appli-  
4                   cable regulatory or other agreement with the  
5                   Secretary or a participating administrative  
6                   entity, after receipt of notice and an oppor-  
7                   tunity to cure;

8                   “(iv) repeatedly failing to make mort-  
9                   gage payments at times when project in-  
10                  come was sufficient to maintain and oper-  
11                  ate the property;

12                  “(v) materially failing to maintain the  
13                  property according to housing quality  
14                  standards after receipt of notice and a rea-  
15                  sonable opportunity to cure; or

16                  “(vi) committing any act or omission  
17                  that would warrant suspension or debar-  
18                  ment by the Secretary; and

19                  “(D) if the project owner demonstrates to  
20                  the satisfaction of the Secretary—

21                  “(i) using information in a com-  
22                  prehensive needs assessment, that capital  
23                  grant assistance is needed for rehabilitation  
24                  of the project; and

1                   “(ii) that project income is not suffi-  
2                   cient to support such rehabilitation.

3                   “(3) *ELIGIBLE PURPOSES.*—The Secretary may  
4                   make grants to the owners of eligible projects for the  
5                   purposes of—

6                   “(A) payment into project replacement re-  
7                   serves;

8                   “(B) providing a fair return on equity in-  
9                   vestment;

10                  “(C) debt service payments on non-Federal  
11                  rehabilitation loans; and

12                  “(D) payment of nonrecurring maintenance  
13                  and capital improvements, under such terms and  
14                  conditions as are determined by the Secretary.

15                  “(4) *GRANT AGREEMENT.*—

16                  “(A) *IN GENERAL.*—The Secretary shall  
17                  provide in any grant agreement under this sub-  
18                  section that the grant shall be terminated if the  
19                  project fails to meet housing quality standards,  
20                  as applicable on the date of enactment of the  
21                  *Multifamily Housing Reform and Affordability*  
22                  *Act of 1997, or any successor standards for the*  
23                  *physical conditions of projects, as are determined*  
24                  *by the Secretary.*

1           “(B) *AFFORDABILITY AND USE CLAUSES.*—  
2           *The Secretary shall include in a grant agreement*  
3           *under this subsection a requirement for the*  
4           *project owners to maintain such affordability*  
5           *and use restrictions as the Secretary determines*  
6           *to be appropriate.*

7           “(C) *OTHER TERMS.*—*The Secretary may*  
8           *include in a grant agreement under this sub-*  
9           *section such other terms and conditions as the*  
10          *Secretary determines to be necessary.*

11          “(5) *DELEGATION.*—

12           “(A) *IN GENERAL.*—*In addition to the au-*  
13          *thorities set forth in subsection (p), the Secretary*  
14          *may delegate to State and local governments the*  
15          *responsibility for the administration of grants*  
16          *under this subsection. Any such government may*  
17          *carry out such delegated responsibilities directly*  
18          *or under contracts.*

19           “(B) *ADMINISTRATION COSTS.*—*In addition*  
20          *to other eligible purposes, amounts of grants*  
21          *under this subsection may be made available for*  
22          *costs of administration under subparagraph (A).*

23          “(6) *FUNDING.*—

24           “(A) *IN GENERAL.*—*For purposes of carry-*  
25          *ing out this subsection, the Secretary may make*

1           *available amounts that are unobligated amounts*  
2           *for contracts for interest reduction payments—*

3                   “(i) *that were previously obligated for*  
4                   *contracts for interest reduction payments*  
5                   *under this section until insurance under*  
6                   *this section was extinguished;*

7                   “(ii) *that become available as a result*  
8                   *of the outstanding principal balance of a*  
9                   *mortgage having been written down;*

10                   “(iii) *that are uncommitted balances*  
11                   *within the limitation on maximum pay-*  
12                   *ments that may have been, before the date*  
13                   *of enactment of the Multifamily Assisted*  
14                   *Housing Reform and Affordability Act of*  
15                   *1997, permitted in any fiscal year; or*

16                   “(iv) *that become available from any*  
17                   *other source.*

18                   “(B) *LIQUIDATION AUTHORITY.—The Sec-*  
19                   *retary may liquidate obligations entered into*  
20                   *under this subsection under section 1305(10) of*  
21                   *title 31, United States Code.*

22                   “(C) *CAPITAL GRANTS.—In making capital*  
23                   *grants under the terms of this subsection, using*  
24                   *the amounts that the Secretary has recaptured*  
25                   *from contracts for interest reduction payments,*

1           *the Secretary shall ensure that the rates and*  
2           *amounts of outlays do not at any one time ex-*  
3           *ceed the rates and amounts of outlays that would*  
4           *have been experienced if the insurance had not*  
5           *been extinguished or the principal amount had*  
6           *not been written down, and the interest reduc-*  
7           *tion payments that the Secretary has recaptured*  
8           *had continued in accordance with the terms in*  
9           *effect immediately prior to such extinguishment*  
10          *or write-down.”.*

11 **SEC. 2202. MINIMUM RENT.**

12          *Notwithstanding section 3(a) of the United States*  
13 *Housing Act of 1937, the Secretary of Housing and Urban*  
14 *Development may provide that each family receiving*  
15 *project-based assistance under section 8 shall pay a mini-*  
16 *imum monthly rent in an amount not to exceed \$25 per*  
17 *month.*

18 **SEC. 2203. REPEAL OF FEDERAL PREFERENCES.**

19          *(a) SECTION 8 EXISTING AND MODERATE REHABILI-*  
20 *TATION.—Section 8(d)(1)(A) of the United States Housing*  
21 *Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read*  
22 *as follows:*

23                 *“(A) the selection of tenants shall be the function*  
24                 *of the owner, subject to the annual contributions con-*  
25                 *tract between the Secretary and the agency, except*

1        *that with respect to the certificate and moderate reha-*  
2        *bilitation programs only, for the purpose of selecting*  
3        *families to be assisted, the public housing agency may*  
4        *establish, after public notice and an opportunity for*  
5        *public comment, a written system of preferences for*  
6        *selection that are not inconsistent with the com-*  
7        *prehensive housing affordability strategy for the juris-*  
8        *diction in which the project is located, in accordance*  
9        *with title I of the Cranston-Gonzalez National Afford-*  
10       *able Housing Act;”.*

11       *(b) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL*  
12       *REHABILITATION.—*

13                *(1) REPEAL.—Section 545(c) of the Cranston-*  
14        *Gonzalez National Affordable Housing Act (42 U.S.C.*  
15        *1437f note) is amended to read as follows:*

16        *“(c) [Reserved.]”.*

17                *(2) PROHIBITION.—The provisions of section*  
18        *8(e)(2) of the United States Housing Act of 1937, as*  
19        *in existence on the day before October 1, 1983, that*  
20        *require tenant selection preferences shall not apply*  
21        *with respect to—*

22                        *(A) housing constructed or substantially re-*  
23        *habilitated pursuant to assistance provided*  
24        *under section 8(b)(2) of the United States Hous-*

1            *ing Act of 1937, as in existence on the day before*  
2            *October 1, 1983; or*

3                    *(B) projects financed under section 202 of*  
4            *the Housing Act of 1959, as in existence on the*  
5            *day before the date of enactment of the Cranston-*  
6            *Gonzalez National Affordable Housing Act.*

7            *(c) RENT SUPPLEMENTS.—Section 101(k) of the Hous-*  
8            *ing and Urban Development Act of 1965 (12 U.S.C.*  
9            *1701s(k)) is amended to read as follows:*

10            *“(k) [Reserved.]”.*

11            *(d) CONFORMING AMENDMENTS.—*

12                    *(1) UNITED STATES HOUSING ACT OF 1937.—The*  
13            *United States Housing Act of 1937 (42 U.S.C. 1437*  
14            *et seq.) is amended—*

15                    *(A) in section 6(o), by striking “preference*  
16            *rules specified in” and inserting “written selec-*  
17            *tion criteria established pursuant to”;*

18                    *(B) in section 8(d)(2)(A), by striking the*  
19            *last sentence; and*

20                    *(C) in section 8(d)(2)(H), by striking “Not-*  
21            *withstanding subsection (d)(1)(A)(i), an” and*  
22            *inserting “An”.*

23                    *(2) CRANSTON-GONZALEZ NATIONAL AFFORD-*  
24            *ABLE HOUSING ACT.—The Cranston-Gonzalez Na-*

1        *tional Affordable Housing Act (42 U.S.C. 12704 et*  
2        *seq.) is amended—*

3                (A) *in section 455(a)(2)(D)(iii), by striking*  
4                *“would qualify for a preference under” and in-*  
5                *serting “meet the written selection criteria estab-*  
6                *lished pursuant to”; and*

7                (B) *in section 522(f)(6)(B), by striking*  
8                *“any preferences for such assistance under sec-*  
9                *tion 8(d)(1)(A)(i)” and inserting “the written se-*  
10                *lection criteria established pursuant to section*  
11                *8(d)(1)(A)”.*

12                (3) *LOW-INCOME HOUSING PRESERVATION AND*  
13        *RESIDENT HOMEOWNERSHIP ACT OF 1990.—The sec-*  
14        *ond sentence of section 226(b)(6)(B) of the Low-In-*  
15        *come Housing Preservation and Resident Home-*  
16        *ownership Act of 1990 (12 U.S.C. 4116(b)(6)(B)) is*  
17        *amended by striking “requirement for giving pref-*  
18        *erences to certain categories of eligible families under”*  
19        *and inserting “written selection criteria established*  
20        *pursuant to”.*

21                (4) *HOUSING AND COMMUNITY DEVELOPMENT*  
22        *ACT OF 1992.—Section 655 of the Housing and Com-*  
23        *munity Development Act of 1992 (42 U.S.C. 13615)*  
24        *is amended by striking “preferences for occupancy”*  
25        *and all that follows before the period at the end and*

1        *inserting “selection criteria established by the owner*  
2        *to elderly families according to such written selection*  
3        *criteria, and to near-elderly families according to*  
4        *such written selection criteria, respectively”.*

5                (5) *REFERENCES IN OTHER LAW.—Any reference*  
6        *in any Federal law other than any provision of any*  
7        *law amended by paragraphs (1) through (5) of this*  
8        *subsection or to the preferences for assistance under*  
9        *section 8(d)(1)(A)(i) of the United States Housing Act*  
10        *of 1937, as that section existed on the day before the*  
11        *effective date of this part, shall be considered to refer*  
12        *to the written selection criteria established pursuant*  
13        *to section 8(d)(1)(A) of the United States Housing*  
14        *Act of 1937, as amended by this subsection.*

15                        **Part 3—Enforcement Provisions**

16        **SEC. 2301. IMPLEMENTATION.**

17                (a) *ISSUANCE OF NECESSARY REGULATIONS.—Not-*  
18        *withstanding section 7(o) of the Department of Housing*  
19        *and Urban Development Act or part 10 of title 24, Code*  
20        *of Federal Regulations (as in existence on the date of enact-*  
21        *ment of this Act), the Secretary shall issue such regulations*  
22        *as the Secretary determines to be necessary to implement*  
23        *this subtitle and the amendments made by this subtitle in*  
24        *accordance with section 552 or 553 of title 5, United States*  
25        *Code, as determined by the Secretary.*



1 *that is security for a mortgage note that is described in*  
2 *subsection (b), willfully uses or authorizes the use of any*  
3 *part of the rents, assets, proceeds, income, or other funds*  
4 *derived from property covered by that mortgage note for*  
5 *any purpose other than to meet reasonable and necessary*  
6 *expenses that include expenses approved by the Secretary*  
7 *if such approval is required, in a period during which the*  
8 *mortgage note is in default or the project is in a nonsurplus*  
9 *cash position, as defined by the regulatory agreement cover-*  
10 *ing the property, or the mortgagor has failed to comply with*  
11 *the provisions of such other form of regulatory control im-*  
12 *posed by the Secretary, shall be fined not more than*  
13 *\$500,000, imprisoned not more than 5 years, or both.*

14       “(b) *MORTGAGE NOTES DESCRIBED.*—*For purposes of*  
15 *subsection (a), a mortgage note is described in this sub-*  
16 *section if it—*

17               “(1) *is insured, acquired, or held by the Sec-*  
18       *retary pursuant to this Act;*

19               “(2) *is made pursuant to section 202 of the*  
20 *Housing Act of 1959 (including property still subject*  
21 *to section 202 program requirements that existed be-*  
22 *fore the date of enactment of the Cranston-Gonzalez*  
23 *National Affordable Housing Act); or*

24               “(3) *is insured or held pursuant to section 542*  
25 *of the Housing and Community Development Act of*

1       1992, but is not reinsured under section 542 of the  
2       Housing and Community Development Act of 1992.”.

3       **SEC. 2313. CIVIL MONEY PENALTIES AGAINST MORTGA-**  
4                               **GEES, LENDERS, AND OTHER PARTICIPANTS**  
5                               **IN FHA PROGRAMS.**

6       (a) *CHANGE TO SECTION TITLE.*—Section 536 of the  
7       National Housing Act (12 U.S.C. 1735f–14) is amended by  
8       striking the section heading and the section designation and  
9       inserting the following:

10      **“SEC. 536. CIVIL MONEY PENALTIES AGAINST MORTGA-**  
11                               **GEES, LENDERS, AND OTHER PARTICIPANTS**  
12                               **IN FHA PROGRAMS.”.**

13      (b) *EXPANSION OF PERSONS ELIGIBLE FOR PEN-*  
14      *ALTY.*—Section 536(a) of the National Housing Act (12  
15      U.S.C. 1735f–14(a)) is amended—

16                   (1) in paragraph (1), by striking the first sen-  
17                   tence and inserting the following: “If a mortgagee ap-  
18                   proved under the Act, a lender holding a contract of  
19                   insurance under title I, or a principal, officer, or em-  
20                   ployee of such mortgagee or lender, or other person or  
21                   entity participating in either an insured mortgage or  
22                   title I loan transaction under this Act or providing  
23                   assistance to the borrower in connection with any  
24                   such loan, including sellers of the real estate involved,  
25                   borrowers, closing agents, title companies, real estate

1       agents, mortgage brokers, appraisers, loan correspond-  
 2       ents and dealers, knowingly and materially violates  
 3       any applicable provision of subsection (b), the Sec-  
 4       retary may impose a civil money penalty on the  
 5       mortgagee or lender, or such other person or entity,  
 6       in accordance with this section. The penalty under  
 7       this paragraph shall be in addition to any other  
 8       available civil remedy or any available criminal pen-  
 9       alty, and may be imposed whether or not the Sec-  
 10      retary imposes other administrative sanctions.”; and

11           (2) in paragraph (2)—

12                   (A) in the first sentence, by inserting “or  
 13                   such other person or entity” after “lender”; and

14                   (B) in the second sentence, by striking “pro-  
 15                   vision” and inserting “the provisions”.

16      (c) *ADDITIONAL VIOLATIONS FOR MORTGAGEES,*  
 17 *LENDERS, AND OTHER PARTICIPANTS IN FHA PRO-*  
 18 *GRAMS.*—Section 536(b) of the National Housing Act (12  
 19 *U.S.C. 1735f–14(b)) is amended—*

20           (1) by redesignating paragraph (2) as para-  
 21      graph (3);

22           (2) by inserting after paragraph (1) the follow-  
 23      ing:

24                   “(2) The Secretary may impose a civil money  
 25      penalty under subsection (a) for any knowing and

1 *material violation by a principal, officer, or employee*  
2 *of a mortgagee or lender, or other participants in ei-*  
3 *ther an insured mortgage or title I loan transaction*  
4 *under this Act or provision of assistance to the bor-*  
5 *rower in connection with any such loan, including*  
6 *sellers of the real estate involved, borrowers, closing*  
7 *agents, title companies, real estate agents, mortgage*  
8 *brokers, appraisers, loan correspondents, and dealers*  
9 *for—*

10 *“(A) submission to the Secretary of infor-*  
11 *mation that was false, in connection with any*  
12 *mortgage insured under this Act, or any loan*  
13 *that is covered by a contract of insurance under*  
14 *title I of this Act;*

15 *“(B) falsely certifying to the Secretary or*  
16 *submitting to the Secretary a false certification*  
17 *by another person or entity; or*

18 *“(C) failure by a loan correspondent or*  
19 *dealer to submit to the Secretary information*  
20 *which is required by regulations or directives in*  
21 *connection with any loan that is covered by a*  
22 *contract of insurance under title I.”; and*

23 *(3) in paragraph (3), as redesignated, by strik-*  
24 *ing “or paragraph (1)(F)” and inserting “or (F), or*  
25 *paragraph (2) (A), (B), or (C)”.*

1       (d) *CONFORMING AND TECHNICAL AMENDMENTS.*—  
2       Section 536 of the National Housing Act (12 U.S.C. 1735f–  
3       14) is amended—

4               (1) in subsection (c)(1)(B), by inserting after  
5       “lender” the following: “or such other person or en-  
6       tity”;

7               (2) in subsection (d)(1)—

8                       (A) by inserting “or such other person or  
9       entity” after “lender”; and

10                      (B) by striking “part 25” and inserting  
11       “parts 24 and 25”; and

12               (3) in subsection (e), by inserting “or such other  
13       person or entity” after “lender” each place that term  
14       appears.

15               ***Subpart B—FHA Multifamily Provisions***

16       ***SEC. 2320. CIVIL MONEY PENALTIES AGAINST GENERAL***  
17               ***PARTNERS, OFFICERS, DIRECTORS, AND CER-***  
18               ***TAIN MANAGING AGENTS OF MULTIFAMILY***  
19               ***PROJECTS.***

20       (a) *CIVIL MONEY PENALTIES AGAINST MULTIFAMILY*  
21       *MORTGAGORS.*—Section 537 of the National Housing Act  
22       (12 U.S.C. 1735f–15) is amended—

23               (1) in subsection (b)(1), by striking “on that  
24       mortgagor” and inserting the following: “on that  
25       mortgagor, on a general partner of a partnership

1        *mortgagor, or on any officer or director of a corporate*  
2        *mortgagor”;*

3            *(2) in subsection (c)—*

4                    *(A) by striking the subsection heading and*  
5                    *inserting the following:*

6        *“(c) OTHER VIOLATIONS.—”;* and

7                    *(B) in paragraph (1)—*

8                            *(i) by striking “VIOLATIONS.—The*  
9                            *Secretary may” and all that follows through*  
10                           *the colon and inserting the following:*

11                           *“(A) LIABLE PARTIES.—The Secretary may*  
12                           *also impose a civil money penalty under this sec-*  
13                           *tion on—*

14                                    *“(i) any mortgagor of a property that*  
15                                    *includes five or more living units and that*  
16                                    *has a mortgage insured, coinsured, or held*  
17                                    *pursuant to this Act;*

18                                    *“(ii) any general partner of a partner-*  
19                                    *ship mortgagor of such property;*

20                                    *“(iii) any officer or director of a cor-*  
21                                    *porate mortgagor;*

22                                    *“(iv) any agent employed to manage*  
23                                    *the property that has an identity of interest*  
24                                    *with the mortgagor, with the general part-*  
25                                    *ner of a partnership mortgagor, or with*

1           *any officer or director of a corporate mort-*  
2           *gagor of such property; or*

3           *“(v) any member of a limited liability*  
4           *company that is the mortgagor of such*  
5           *property or is the general partner of a lim-*  
6           *ited partnership mortgagor or is a partner*  
7           *of a general partnership mortgagor.*

8           *“(B) VIOLATIONS.—A penalty may be im-*  
9           *posed under this section upon any liable party*  
10          *under subparagraph (A) that knowingly and*  
11          *materially takes any of the following actions:”;*

12           *(ii) in subparagraph (B), as des-*  
13           *ignated by clause (i), by redesignating the*  
14           *subparagraph designations (A) through (L)*  
15           *as clauses (i) through (xii), respectively;*

16           *(iii) by adding after clause (xii), as re-*  
17           *designated by clause (ii), the following:*

18           *“(xiii) Failure to maintain the prem-*  
19           *ises, accommodations, any living unit in*  
20           *the project, and the grounds and equipment*  
21           *appurtenant thereto in good repair and*  
22           *condition in accordance with regulations*  
23           *and requirements of the Secretary, except*  
24           *that nothing in this clause shall have the ef-*  
25           *fect of altering the provisions of an existing*

1           *regulatory agreement or federally insured*  
2           *mortgage on the property.*

3           “(xiv) *Failure, by a mortgagor, a gen-*  
4           *eral partner of a partnership mortgagor, or*  
5           *an officer or director of a corporate mortga-*  
6           *gor, to provide management for the project*  
7           *that is acceptable to the Secretary pursuant*  
8           *to regulations and requirements of the Sec-*  
9           *retary.”; and*

10           *(iv) in the last sentence, by deleting “of*  
11           *such agreement” and inserting “of this sub-*  
12           *section”;*

13           *(3) in subsection (d)—*

14           *(A) in paragraph (1)(B), by inserting after*  
15           *“mortgagor” the following: “, general partner of*  
16           *a partnership mortgagor, officer or director of a*  
17           *corporate mortgagor, or identity of interest agent*  
18           *employed to manage the property”;* and

19           *(B) by adding at the end the following:*

20           “(5) *PAYMENT OF PENALTY.—No payment of a*  
21           *civil money penalty levied under this section shall be*  
22           *payable out of project income.”;*

23           *(4) in subsection (e)(1), by deleting “a mortga-*  
24           *gor” and inserting “an entity or person”;*

1           (5) *in subsection (f), by inserting after “mortgagor” each place such term appears the following: “,*  
2           *general partner of a partnership mortgagor, officer or*  
3           *director of a corporate mortgagor, or identity of inter-*  
4           *est agent employed to manage the property”;*

5           (6) *by striking the heading of subsection (f) and*  
6           *inserting the following: “CIVIL MONEY PENALTIES*  
7           *AGAINST MULTIFAMILY MORTGAGORS, GENERAL*  
8           *PARTNERS OF PARTNERSHIP MORTGAGORS, OFFI-*  
9           *CERS AND DIRECTORS OF CORPORATE MORTGAGORS,*  
10           *AND CERTAIN MANAGING AGENTS”;* *and*

11           (7) *by adding at the end the following:*

12           “(k) *IDENTITY OF INTEREST MANAGING AGENT.—In*  
13           *this section, the terms ‘agent employed to manage the prop-*  
14           *erty that has an identity of interest’ and ‘identity of inter-*  
15           *est agent’ mean an entity—*

16           (1) *that has management responsibility for a*  
17           *project;*

18           (2) *in which the ownership entity, including its*  
19           *general partner or partners (if applicable) and its of-*  
20           *ficers or directors (if applicable), has an ownership*  
21           *interest; and*

22           (3) *over which the ownership entity exerts effec-*  
23           *tive control.”.*

24           (b) *IMPLEMENTATION.—*

1           (1) *PUBLIC COMMENT.*—*The Secretary shall im-*  
2           *plement the amendments made by this section by reg-*  
3           *ulation issued after notice and opportunity for public*  
4           *comment. The notice shall seek comments primarily*  
5           *as to the definitions of the terms “ownership interest*  
6           *in” and “effective control”, as those terms are used in*  
7           *the definition of the terms “agent employed to man-*  
8           *age the property that has an identity of interest” and*  
9           *“identity of interest agent”.*

10           (2) *TIMING.*—*A proposed rule implementing the*  
11           *amendments made by this section shall be published*  
12           *not later than 1 year after the date of enactment of*  
13           *this Act.*

14           (c) *APPLICABILITY OF AMENDMENTS.*—*The amend-*  
15           *ments made by subsection (a) shall apply only with respect*  
16           *to—*

17           (1) *violations that occur on or after the effective*  
18           *date of the final regulations implementing the amend-*  
19           *ments made by this section; and*

20           (2) *in the case of a continuing violation (as de-*  
21           *termined by the Secretary of Housing and Urban De-*  
22           *velopment), any portion of a violation that occurs on*  
23           *or after that date.*

1 **SEC. 2321. CIVIL MONEY PENALTIES FOR NONCOMPLIANCE**  
2 **WITH SECTION 8 HAP CONTRACTS.**

3 (a) *BASIC AUTHORITY.*—*Title I of the United States*  
4 *Housing Act of 1937 is amended—*

5 (1) *by designating the second section designated*  
6 *as section 27 (as added by section 903(b) of Public*  
7 *Law 104–193 (110 Stat. 2348)) as section 28; and*

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

9 **“SEC. 29. CIVIL MONEY PENALTIES AGAINST SECTION 8**  
10 **OWNERS.**

11 *“(a) IN GENERAL.—*

12 *“(1) EFFECT ON OTHER REMEDIES.—The pen-*  
13 *alties set forth in this section shall be in addition to*  
14 *any other available civil remedy or any available*  
15 *criminal penalty, and may be imposed regardless of*  
16 *whether the Secretary imposes other administrative*  
17 *sanctions.*

18 *“(2) FAILURE OF SECRETARY.—The Secretary*  
19 *may not impose penalties under this section for a vio-*  
20 *lation, if a material cause of the violation is the fail-*  
21 *ure of the Secretary, an agent of the Secretary, or a*  
22 *public housing agency to comply with an existing*  
23 *agreement.*

24 *“(b) VIOLATIONS OF HOUSING ASSISTANCE PAYMENT*  
25 *CONTRACTS FOR WHICH PENALTY MAY BE IMPOSED.—*

1           “(1) *LIABLE PARTIES.*—*The Secretary may im-*  
2           *pose a civil money penalty under this section on—*

3                   “(A) *any owner of a property receiving*  
4                   *project-based assistance under section 8;*

5                   “(B) *any general partner of a partnership*  
6                   *owner of that property; and*

7                   “(C) *any agent employed to manage the*  
8                   *property that has an identity of interest with the*  
9                   *owner or the general partner of a partnership*  
10                  *owner of the property.*

11           “(2) *VIOLATIONS.*—*A penalty may be imposed*  
12           *under this section for a knowing and material breach*  
13           *of a housing assistance payments contract, including*  
14           *the following—*

15                   “(A) *failure to provide decent, safe, and*  
16                   *sanitary housing pursuant to section 8; or*

17                   “(B) *knowing or willful submission of false,*  
18                   *fictitious, or fraudulent statements or requests*  
19                   *for housing assistance payments to the Secretary*  
20                   *or to any department or agency of the United*  
21                   *States.*

22           “(3) *AMOUNT OF PENALTY.*—*The amount of a*  
23           *penalty imposed for a violation under this subsection,*  
24           *as determined by the Secretary, may not exceed*  
25           *\$25,000 per violation.*

1       “(c) *AGENCY PROCEDURES.*—

2               “(1) *ESTABLISHMENT.*—*The Secretary shall*  
3 *issue regulations establishing standards and proce-*  
4 *dures governing the imposition of civil money pen-*  
5 *alties under subsection (b). These standards and pro-*  
6 *cedures—*

7                       “(A) *shall provide for the Secretary or other*  
8 *department official to make the determination to*  
9 *impose the penalty;*

10                      “(B) *shall provide for the imposition of a*  
11 *penalty only after the liable party has received*  
12 *notice and the opportunity for a hearing on the*  
13 *record; and*

14                      “(C) *may provide for review by the Sec-*  
15 *retary of any determination or order, or inter-*  
16 *locutory ruling, arising from a hearing and judi-*  
17 *cial review, as provided under subsection (d).*

18       “(2) *FINAL ORDERS.*—

19                      “(A) *IN GENERAL.*—*If a hearing is not re-*  
20 *quested before the expiration of the 15-day period*  
21 *beginning on the date on which the notice of op-*  
22 *portunity for hearing is received, the imposition*  
23 *of a penalty under subsection (b) shall constitute*  
24 *a final and unappealable determination.*

1           “(B) *EFFECT OF REVIEW.*—If the Secretary  
2           reviews the determination or order, the Secretary  
3           may affirm, modify, or reverse that determina-  
4           tion or order.

5           “(C) *FAILURE TO REVIEW.*—If the Sec-  
6           retary does not review that determination or  
7           order before the expiration of the 90-day period  
8           beginning on the date on which the determina-  
9           tion or order is issued, the determination or  
10          order shall be final.

11          “(3) *FACTORS IN DETERMINING AMOUNT OF PEN-*  
12          *ALTY.*—In determining the amount of a penalty  
13          under subsection (b), the Secretary shall take into  
14          consideration—

15                 “(A) *the gravity of the offense;*

16                 “(B) *any history of prior offenses by the vi-*  
17                 *olator (including offenses occurring before the en-*  
18                 *actment of this section);*

19                 “(C) *the ability of the violator to pay the*  
20                 *penalty;*

21                 “(D) *any injury to tenants;*

22                 “(E) *any injury to the public;*

23                 “(F) *any benefits received by the violator as*  
24                 *a result of the violation;*

25                 “(G) *deterrence of future violations; and*

1           “(H) such other factors as the Secretary  
2           may establish by regulation.

3           “(4) PAYMENT OF PENALTY.—No payment of a  
4           civil money penalty levied under this section shall be  
5           payable out of project income.

6           “(d) JUDICIAL REVIEW OF AGENCY DETERMINA-  
7           TION.—Judicial review of determinations made under this  
8           section shall be carried out in accordance with section  
9           537(e) of the National Housing Act.

10          “(e) REMEDIES FOR NONCOMPLIANCE.—

11           “(1) JUDICIAL INTERVENTION.—

12           “(A) IN GENERAL.—If a person or entity  
13           fails to comply with the determination or order  
14           of the Secretary imposing a civil money penalty  
15           under subsection (b), after the determination or  
16           order is no longer subject to review as provided  
17           by subsections (c) and (d), the Secretary may re-  
18           quest the Attorney General of the United States  
19           to bring an action in an appropriate United  
20           States district court to obtain a monetary judg-  
21           ment against that person or entity and such  
22           other relief as may be available.

23           “(B) FEES AND EXPENSES.—Any monetary  
24           judgment awarded in an action brought under  
25           this paragraph may, in the discretion of the

1           *court, include the attorney’s fees and other ex-*  
2           *penses incurred by the United States in connec-*  
3           *tion with the action.*

4           “(2) *NONREVIEWABILITY OF DETERMINATION OR*  
5           *ORDER.—In an action under this subsection, the va-*  
6           *lidity and appropriateness of the determination or*  
7           *order of the Secretary imposing the penalty shall not*  
8           *be subject to review.*

9           “(f) *SETTLEMENT BY SECRETARY.—The Secretary*  
10          *may compromise, modify, or remit any civil money penalty*  
11          *which may be, or has been, imposed under this section.*

12          “(g) *DEPOSIT OF PENALTIES.—*

13                 “(1) *IN GENERAL.—Notwithstanding any other*  
14                 *provision of law, if the mortgage covering the prop-*  
15                 *erty receiving assistance under section 8 is insured or*  
16                 *formerly insured by the Secretary, the Secretary shall*  
17                 *apply all civil money penalties collected under this*  
18                 *section to the appropriate insurance fund or funds es-*  
19                 *tablished under this Act, as determined by the Sec-*  
20                 *retary.*

21                 “(2) *EXCEPTION.—Notwithstanding any other*  
22                 *provision of law, if the mortgage covering the prop-*  
23                 *erty receiving assistance under section 8 is neither in-*  
24                 *sured nor formerly insured by the Secretary, the Sec-*  
25                 *retary shall make all civil money penalties collected*

1        *under this section available for use by the appropriate*  
2        *office within the Department for administrative costs*  
3        *related to enforcement of the requirements of the var-*  
4        *ious programs administered by the Secretary.*

5        *“(h) DEFINITIONS.—In this section—*

6                *“(1) the term ‘agent employed to manage the*  
7                *property that has an identity of interest’ means an*  
8                *entity—*

9                        *“(A) that has management responsibility*  
10                      *for a project;*

11                      *“(B) in which the ownership entity, includ-*  
12                      *ing its general partner or partners (if applica-*  
13                      *ble), has an ownership interest; and*

14                      *“(C) over which such ownership entity ex-*  
15                      *erts effective control; and*

16                *“(2) the term ‘knowing’ means having actual*  
17                *knowledge of or acting with deliberate ignorance of or*  
18                *reckless disregard for the prohibitions under this sec-*  
19                *tion.”.*

20        *(b) APPLICABILITY.—The amendments made by sub-*  
21        *section (a) shall apply only with respect to—*

22                *(1) violations that occur on or after the effective*  
23                *date of final regulations implementing the amend-*  
24                *ments made by this section; and*

1           (2) *in the case of a continuing violation (as de-*  
2 *termined by the Secretary of Housing and Urban De-*  
3 *velopment), any portion of a violation that occurs on*  
4 *or after such date.*

5           (c) *IMPLEMENTATION.—*

6           (1) *REGULATIONS.—*

7           (A) *IN GENERAL.—The Secretary shall im-*  
8 *plement the amendments made by this section by*  
9 *regulation issued after notice and opportunity*  
10 *for public comment.*

11           (B) *COMMENTS SOUGHT.—The notice under*  
12 *subparagraph (A) shall seek comments as to the*  
13 *definitions of the terms “ownership interest in”*  
14 *and “effective control”, as such terms are used in*  
15 *the definition of the term “agent employed to*  
16 *manage such property that has an identity of in-*  
17 *terest”.*

18           (2) *TIMING.—A proposed rule implementing the*  
19 *amendments made by this section shall be published*  
20 *not later than 1 year after the date of enactment of*  
21 *this Act.*

22 **SEC. 2322. EXTENSION OF DOUBLE DAMAGES REMEDY.**

23           *Section 421 of the Housing and Community Develop-*  
24 *ment Act of 1987 (12 U.S.C. 1715z–4a) is amended—*

25           (1) *in subsection (a)(1)—*

1           (A) *in the first sentence, by striking “Act;*  
2 *or (B)” and inserting the following: “Act; (B) a*  
3 *regulatory agreement that applies to a multifam-*  
4 *ily project whose mortgage is insured or held by*  
5 *the Secretary under section 202 of the Housing*  
6 *Act of 1959 (including property subject to section*  
7 *202 of such Act as it existed before enactment of*  
8 *the Cranston-Gonzalez National Affordable*  
9 *Housing Act of 1990); (C) a regulatory agree-*  
10 *ment or such other form of regulatory control as*  
11 *may be imposed by the Secretary that applies to*  
12 *mortgages insured or held by the Secretary under*  
13 *section 542 of the Housing and Community De-*  
14 *velopment Act of 1992, but not reinsured under*  
15 *section 542 of the Housing and Community De-*  
16 *velopment Act of 1992; or (D)”;* and

17           (B) *in the second sentence, by inserting*  
18 *after “agreement” the following: “, or such other*  
19 *form of regulatory control as may be imposed by*  
20 *the Secretary,”;*

21           (2) *in subsection (a)(2), by inserting after “Act,”*  
22 *the following: “under section 202 of the Housing Act*  
23 *of 1959 (including section 202 of such Act as it ex-*  
24 *isted before enactment of the Cranston-Gonzalez Na-*  
25 *tional Affordable Housing Act of 1990) and under*

1 *section 542 of the Housing and Community Develop-*  
2 *ment Act of 1992,”;*

3 *(3) in subsection (b), by inserting after “agree-*  
4 *ment” the following: “, or such other form of regu-*  
5 *latory control as may be imposed by the Secretary,”;*

6 *(4) in subsection (c)—*

7 *(A) in the first sentence, by inserting after*  
8 *“agreement” the following: “, or such other form*  
9 *of regulatory control as may be imposed by the*  
10 *Secretary,”; and*

11 *(B) in the second sentence, by inserting be-*  
12 *fore the period the following: “or under the*  
13 *Housing Act of 1959, as appropriate”; and*

14 *(5) in subsection (d), by inserting after “agree-*  
15 *ment” the following: “, or such other form of regu-*  
16 *latory control as may be imposed by the Secretary,”.*

17 **SEC. 2323. OBSTRUCTION OF FEDERAL AUDITS.**

18 *Section 1516(a) of title 18, United States Code, is*  
19 *amended by inserting after “under a contract or sub-*  
20 *contract,” the following: “or relating to any property that*  
21 *is security for a mortgage note that is insured, guaranteed,*  
22 *acquired, or held by the Secretary of Housing and Urban*  
23 *Development pursuant to any Act administered by the Sec-*  
24 *retary,”.*

1 **TITLE III—COMMITTEE ON COM-**  
2 **MERCE SCIENCE AND TRANS-**  
3 **PORTATION**

4 **Subtitle A—Spectrum Auctions and**  
5 **License Fees**

6 **SEC. 3001. SPECTRUM AUCTIONS.**

7 (a) *EXTENSION AND EXPANSION OF AUCTION AUTHOR-*  
8 *ITY.—*

9 (1) *IN GENERAL.—Section 309(j) of the Commu-*  
10 *nications Act of 1934 (47 U.S.C. 309(j)) is amend-*  
11 *ed—*

12 (A) *by striking paragraphs (1) and (2) and*  
13 *inserting in lieu thereof the following:*

14 “(1) *GENERAL AUTHORITY.—If mutually exclu-*  
15 *sive applications are accepted for any initial license*  
16 *or construction permit that will involve an exclusive*  
17 *use of the electromagnetic spectrum, then, except as*  
18 *provided in paragraph (2), the Commission shall*  
19 *grant the license or permit to a qualified applicant*  
20 *through a system of competitive bidding that meets*  
21 *the requirements of this subsection. The Commission,*  
22 *subject to paragraphs (2) and (7) of this subsection,*  
23 *also may use auctions as a means to assign spectrum*  
24 *when it determines that such an auction is consistent*

1       *with the public interest, convenience, and necessity,*  
2       *and the purposes of this Act.*

3               “(2) *EXCEPTIONS.*—*The competitive bidding au-*  
4       *thority granted by this subsection shall not apply to*  
5       *a license or construction permit the Commission is-*  
6       *ssues—*

7               “(A) *for public safety services, including*  
8       *private internal radio services used by State and*  
9       *local governments and non-government entities,*  
10       *including emergency auto service by nonprofit*  
11       *organizations, that—*

12               “(i) *are used to protect the safety of*  
13       *life, health, or property; and*

14               “(ii) *are not made commercially avail-*  
15       *able to the public;*

16               “(B) *for public telecommunications services,*  
17       *as defined in section 397(14) of this Act, when*  
18       *the license application is for channels reserved*  
19       *for noncommercial use;*

20               “(C) *for spectrum and associated orbits*  
21       *used in the provision of any communications*  
22       *within a global satellite system;*

23               “(D) *for initial licenses or construction per-*  
24       *mits for new digital television service given to*

1           *existing terrestrial broadcast licensees to replace*  
2           *their current television licenses;*

3           “(E) *for terrestrial radio and television*  
4           *broadcasting when the Commission determines*  
5           *that an alternative method of resolving mutually*  
6           *exclusive applications serves the public interest*  
7           *substantially better than competitive bidding; or*

8           “(F) *for spectrum allocated for unlicensed*  
9           *use pursuant to part 15 of the Commission’s reg-*  
10          *ulations (47 C.F.R. part 15), if the competitive*  
11          *bidding for licenses would interfere with oper-*  
12          *ation of end-user products permitted under such*  
13          *regulations.”;*

14          (B) *by striking “1998” in paragraph (11)*  
15          *and inserting “2007”; and*

16          (C) *by inserting after paragraph (13) the*  
17          *following:*

18          “(14) *OUT-OF-BAND EFFECTS.—The Commission*  
19          *and the National Telecommunications and Informa-*  
20          *tion Administration shall seek to create incentives to*  
21          *minimize the effects of out-of-band emissions to pro-*  
22          *mote more efficient use of the electromagnetic spec-*  
23          *trum. The Commission and the National Tele-*  
24          *communications and Information Administration*

1       *also shall encourage licensees to minimize the effects*  
2       *of interference.”.*

3               (2) *CONFORMING AMENDMENT.—Subsection (i) of*  
4       *section 309 of the Communications Act of 1934 is re-*  
5       *pealed.*

6               (b) *AUCTION OF 45 MEGAHERTZ LOCATED AT 1,710–*  
7       *1,755 MEGAHERTZ.—*

8               (1) *IN GENERAL.—The Commission shall assign*  
9       *by competitive bidding 45 megahertz located at*  
10       *1,710–1,755 megahertz no later than December 31,*  
11       *2001, for commercial use.*

12              (2) *FEDERAL GOVERNMENT USERS.—Any Fed-*  
13       *eral Government station that, on the date of enact-*  
14       *ment of this Act, is assigned to use electromagnetic*  
15       *spectrum located in the 1,710–1,755 megahertz band*  
16       *shall retain that use until December 31, 2003, unless*  
17       *exempted from relocation.*

18              (c) *COMMISSION TO MAKE ADDITIONAL SPECTRUM*  
19       *AVAILABLE BY AUCTION.—*

20              (1) *IN GENERAL.—The Federal Communications*  
21       *Commission shall complete all actions necessary to*  
22       *permit the assignment, by September 30, 2002, by*  
23       *competitive bidding pursuant to section 309(j) of the*  
24       *Communications Act of 1934 (47 U.S.C. 309(j)), of li-*

1        *censes for the use of bands of frequencies currently al-*  
2        *located by the Commission that—*

3                *(A) in the aggregate span not less than 55*  
4        *megahertz;*

5                *(B) are located below 3 gigahertz; and*

6                *(C) as of the date of enactment of this Act,*  
7        *have not been—*

8                *(i) designated by Commission regula-*  
9        *tion for assignment pursuant to section*  
10        *309(j);*

11                *(ii) identified by the Secretary of Com-*  
12        *merce pursuant to section 113 of the Na-*  
13        *tional Telecommunications and Information*  
14        *Administration Organization Act (47*  
15        *U.S.C. 923); or*

16                *(iii) allocated for Federal Government*  
17        *use pursuant to section 305 of the Commu-*  
18        *nications Act of 1934 (47 U.S.C. 305).*

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

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

1           (B) consider the cost to incumbent licensees  
2 of relocating existing uses to other bands of fre-  
3 quencies or other means of communication;

4           (C) consider the needs of public safety radio  
5 services;

6           (D) comply with the requirements of inter-  
7 national agreements concerning spectrum alloca-  
8 tions; and

9           (E) coordinate with the Secretary of Com-  
10 merce when there is any impact on Federal Gov-  
11 ernment spectrum use.

12           (3) NOTIFICATION TO THE SECRETARY OF COM-  
13 MERCE.—*The Commission shall attempt to accommo-*  
14 *date incumbent licensees displaced under this section*  
15 *by relocating them to other frequencies available to*  
16 *the Commission. The Commission shall notify the*  
17 *Secretary of Commerce whenever the Commission is*  
18 *not able to provide for the effective relocation of an*  
19 *incumbent licensee to a band of frequencies available*  
20 *to the Commission for assignment. The notification*  
21 *shall include—*

22                   (A) specific information on the incumbent  
23 licensee;

24                   (B) the bands the Commission considered  
25 for relocation of the licensee; and

1           (C) *the reasons the incumbent cannot be ac-*  
2           *commodated in these bands.*

3           (4) *REPORT TO THE SECRETARY OF COM-*  
4           *MERCE.—*

5           (A) *TECHNICAL REPORT.—The Commission,*  
6           *in consultation with the National Telecommuni-*  
7           *cations and Information Administration, shall*  
8           *submit a detailed technical report to the Sec-*  
9           *retary of Commerce setting forth—*

10           (i) *the reasons the incumbent licensees*  
11           *described in paragraph (3) could not be ac-*  
12           *commodated in existing non-government*  
13           *spectrum; and*

14           (ii) *the Commission's recommendations*  
15           *for relocating those incumbents.*

16           (B) *NTIA USE OF REPORT.—The National*  
17           *Telecommunications and Information Adminis-*  
18           *tration shall review this report when assessing*  
19           *whether a commercial licensee can be accommo-*  
20           *dated by being reassigned to a frequency allo-*  
21           *cated for Government use.*

22           (d) *IDENTIFICATION AND REALLOCATION OF FRE-*  
23           *QUENCIES.—*

24           (1) *IN GENERAL.—Section 113 of the National*  
25           *Telecommunications and Information Administration*

1        *Organization Act (47 U.S.C. 901 et seq.) is amended*  
2        *by adding at the end thereof the following:*

3        “(f) *ADDITIONAL REALLOCATION REPORT.—If the Sec-*  
4        *retary receives a report from the Commission pursuant to*  
5        *section 3001(c)(6) of the Balanced Budget Act of 1997, the*  
6        *Secretary shall submit to the President, the Congress, and*  
7        *the Commission a report with the Secretary’s recommenda-*  
8        *tions.*

9        “(g) *REIMBURSEMENT OF FEDERAL SPECTRUM*  
10       *USERS FOR RELOCATION COSTS.—*

11                “(1) *IN GENERAL.—*

12                        “(A) *ACCEPTANCE OF COMPENSATION AU-*  
13                        *THORIZED.—In order to expedite the efficient use*  
14                        *of the electromagnetic spectrum, and notwith-*  
15                        *standing section 3302(b) of title 31, United*  
16                        *States Code, any Federal entity that operates a*  
17                        *Federal Government station that has been identi-*  
18                        *fied by NTIA for relocation may accept pay-*  
19                        *ment, including in-kind compensation and shall*  
20                        *be reimbursed if required to relocate by the serv-*  
21                        *ice applicant, provider, licensee, or representa-*  
22                        *tive entering the band as a result of a license as-*  
23                        *signment by the Commission or otherwise au-*  
24                        *thorized by Commission rules.*

1           “(B) *DUTY TO COMPENSATE OUSTED FEDERAL ENTITY.*—Any such service applicant, provider, licensee, or representative shall compensate the Federal entity in advance for relocating through monetary or in-kind payment for the cost of relocating the Federal entity’s operations from one or more electromagnetic spectrum frequencies to any other frequency or frequencies, or to any other telecommunications transmission media.

11           “(C) *COMPENSABLE COSTS.*—Compensation shall include, but not be limited to, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other relocation expenses incurred by that entity.

17           “(D) *DISPOSITION OF PAYMENTS.*—Payments, other than in-kind compensation, pursuant to this section shall be deposited by electronic funds transfer in a separate agency account or accounts which shall be used to pay directly the costs of relocation, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund

1           *excess sums when necessary, and shall remain*  
2           *available until expended.*

3           “(E) *APPLICATION TO CERTAIN OTHER RE-*  
4           *LOCATIONS.—The provisions of this paragraph*  
5           *also apply to any Federal entity that operates a*  
6           *Federal Government station assigned to use elec-*  
7           *tromagnetic spectrum identified for reallocation*  
8           *under subsection (a), if before the date of enact-*  
9           *ment of the Balanced Budget Act of 1997 the*  
10          *Commission has not identified that spectrum for*  
11          *service or assigned licenses or otherwise author-*  
12          *ized service for that spectrum.*

13          “(2) *PETITIONS FOR RELOCATION.—Any person*  
14          *seeking to relocate a Federal Government station that*  
15          *has been assigned a frequency within a band allocated*  
16          *for mixed Federal and non-Federal use under this Act*  
17          *shall submit a petition for relocation to NTIA. The*  
18          *NTIA shall limit or terminate the Federal Govern-*  
19          *ment station’s operating license within 6 months after*  
20          *receiving the petition if the following requirements*  
21          *are met:*

22                  “(A) *The proposed relocation is consistent*  
23                  *with obligations undertaken by the United States*  
24                  *in international agreements and with United*

1           *States national security and public safety inter-*  
2           *ests.*

3           “(B) *The person seeking relocation of the*  
4           *Federal Government station has guaranteed to*  
5           *defray entirely, through payment in advance,*  
6           *advance in-kind payment of costs, or a combina-*  
7           *tion of payment in advance and advance in-kind*  
8           *payment, all relocation costs incurred by the*  
9           *Federal entity, including, but not limited to, all*  
10          *engineering, equipment, site acquisition and con-*  
11          *struction, and regulatory fee costs.*

12          “(C) *The person seeking relocation com-*  
13          *pletes all activities necessary for implementing*  
14          *the relocation, including construction of replace-*  
15          *ment facilities (if necessary and appropriate)*  
16          *and identifying and obtaining on the Federal en-*  
17          *tity’s behalf new frequencies for use by the relo-*  
18          *cated Federal Government station (if the station*  
19          *is not relocating to spectrum reserved exclusively*  
20          *for Federal use).*

21          “(D) *Any necessary replacement facilities,*  
22          *equipment modifications, or other changes have*  
23          *been implemented and tested by the Federal en-*  
24          *tity to ensure that the Federal Government sta-*  
25          *tion is able to accomplish successfully its pur-*

1           poses including maintaining communication sys-  
2           tem performance.

3           “(E) The Secretary has determined that the  
4           proposed use of any spectrum frequency band to  
5           which a Federal entity relocates its operations is  
6           suitable for the technical characteristics of the  
7           band and consistent with other uses of the band.  
8           In exercising authority under this subparagraph,  
9           the Secretary shall consult with the Secretary of  
10          Defense, the Secretary of State, and other appro-  
11          priate Federal officials.

12          “(3) *RIGHT TO RECLAIM.*—If within one year  
13          after the relocation of a Federal Government station,  
14          the Federal entity affected demonstrates to the Sec-  
15          retary and the Commission that the new facilities or  
16          spectrum are not comparable to the facilities or spec-  
17          trum from which the Federal Government station was  
18          relocated, the person who sought the relocation shall  
19          take reasonable steps to remedy any defects or pay the  
20          Federal entity for the costs of returning the Federal  
21          Government station to the electromagnetic spectrum  
22          from which the station was relocated.

23          “(h) *FEDERAL ACTION TO EXPEDITE SPECTRUM*  
24          *TRANSFER.*—Any Federal Government station which oper-  
25          ates on electromagnetic spectrum that has been identified

1 *for reallocation under this Act for mixed Federal and non-*  
2 *Federal use in any reallocation report under subsection (a),*  
3 *to the maximum extent practicable through the use of sub-*  
4 *section (g) and any other applicable law, shall take prompt*  
5 *action to make electromagnetic spectrum available for use*  
6 *in a manner that maximizes efficient use of the electro-*  
7 *magnetic spectrum.*

8       “(i) *FEDERAL SPECTRUM ASSIGNMENT RESPONSIBIL-*  
9 *ITY.—This section does not modify NTLA’s authority under*  
10 *section 103(b)(2)(A) of this Act.*

11       “(j) *DEFINITIONS.—As used in this section—*

12               “(1) *the term ‘Federal entity’ means any depart-*  
13 *ment, agency, or instrumentality of the Federal Gov-*  
14 *ernment that utilizes a Government station license ob-*  
15 *tained under section 305 of the 1934 Act (47 U.S.C.*  
16 *305);*

17               “(2) *the term ‘digital television services’ means*  
18 *television services provided using digital technology to*  
19 *enhance audio quality and video resolution, as further*  
20 *defined in the Memorandum Opinion, Report, and*  
21 *Order of the Commission entitled ‘Advanced Tele-*  
22 *vision Systems and Their Impact Upon the Existing*  
23 *Television Service’, MM Docket No. 87–268 and any*  
24 *subsequent FCC proceedings dealing with digital tele-*  
25 *vision; and*

1           “(3) the term ‘analog television licenses’ means  
2 licenses issued pursuant to 47 CFR 73.682 et seq.”.

3           (2) Section 114(a) of that Act (47 U.S.C. 924(a))  
4 is amended by striking “(a) or (d)(1)” and inserting  
5 “(a), (d)(1), or (f)”.

6           (e) *IDENTIFICATION AND REALLOCATION OF*  
7 *AUCTIONABLE FREQUENCIES.—*

8           (1) *SECOND REPORT REQUIRED.—*Section 113(a)  
9 of the *National Telecommunications and Information*  
10 *Administration Organization Act* (47 U.S.C. 923(a))  
11 is amended by inserting “and within 6 months after  
12 the date of enactment of the *Balanced Budget Act of*  
13 *1997*” after “*Act of 1993*”.

14           (2) *IN GENERAL.—*Section 113(b) of the *National*  
15 *Telecommunications and Information Administration*  
16 *Organization Act* (47 U.S.C. 923(b)) is amended—

17           (A) by striking the caption of paragraph  
18 (1) and inserting “*INITIAL REALLOCATION RE-*  
19 *PORT.—*”;

20           (B) by inserting “in the initial report re-  
21 quired by subsection (a)” after “recommend for  
22 reallocation” in paragraph (1);

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

1                   (D) by adding at the end thereof the follow-  
2                   ing:

3                   “(3) *SECOND REALLOCATION REPORT.*—The Sec-  
4                   retary shall make available for reallocation a total of  
5                   20 megahertz in the second report required by sub-  
6                   section (a), for use other than by Federal Government  
7                   stations under section 305 of the 1934 Act (47 U.S.C.  
8                   305), that is located below 3 gigahertz and that meets  
9                   the criteria specified in paragraphs (1) through (5) of  
10                  subsection (a).”.

11                  (3) *ALLOCATION AND ASSIGNMENT.*—Section 115  
12                  of that Act (47 U.S.C. 925) is amended—

13                         (A) by striking “the report required by sec-  
14                         tion 113(a)” in subsection (b) and inserting “the  
15                         initial reallocation report required by section  
16                         113(a)”; and

17                         (B) by adding at the end thereof the follow-  
18                         ing:

19                         “(c) *ALLOCATION AND ASSIGNMENT OF FREQUENCIES*  
20                         *IDENTIFIED IN THE SECOND ALLOCATION REPORT.*—

21                         “(1) *PLAN.*—Within 12 months after it receives  
22                         a report from the Secretary under section 113(f) of  
23                         this Act, the Commission shall—

24                                 (A) submit a plan, prepared in coordina-  
25                                 tion with the Secretary of Commerce, to the

1           *President and to the Senate Committee on Com-*  
 2           *merce, Science, and Transportation and the*  
 3           *House of Representatives Committee on Com-*  
 4           *merce, for the allocation and assignment under*  
 5           *the 1934 Act of frequencies identified in the re-*  
 6           *port; and*

7                     *“(B) implement the plan.*

8                     *“(2) CONTENTS.—The plan prepared by the*  
 9           *Commission under paragraph (1) shall consist of a*  
 10          *schedule of reallocation and assignment of those fre-*  
 11          *quencies in accordance with section 309(j) of the 1934*  
 12          *Act in time for the assignment of those licenses or*  
 13          *permits by September 30, 2002.”.*

14   **SEC. 3002. DIGITAL TELEVISION SERVICES.**

15          *Section 309(j) of the Communications Act of 1934 (47*  
 16          *U.S.C. 309(j)) is amended by adding at the end thereof the*  
 17          *following:*

18                     **“(15) AUCTION OF RECAPTURED BROADCAST**  
 19                     **TELEVISION SPECTRUM AND POTENTIAL DIGITAL TEL-**  
 20                     **VISION LICENSE FEES.—**

21                             **“(A) LIMITATIONS ON TERMS OF TERRES-**  
 22                             **TRIAL TELEVISION BROADCAST LICENSES.—**

23                                     *“(i) A television license that authorizes*  
 24                                     *analog television services may not be re-*  
 25                                     *newed to authorize such services for a pe-*

1            *riod that extends beyond December 31,*  
2            *2006. The Commission shall extend or*  
3            *waive this date for any station in any tele-*  
4            *vision market unless 95 percent of the tele-*  
5            *vision households have access to digital local*  
6            *television signals, either by direct off-air re-*  
7            *ception or by other means.*

8            *“(ii) A commercial digital television li-*  
9            *cence that is issued shall expire on Septem-*  
10           *ber 30, 2003. A commercial digital tele-*  
11           *vision license shall be re-issued only subject*  
12           *to fulfillment of the licensee’s obligations*  
13           *under subparagraph (C).*

14           *“(iii) No later than December 31,*  
15           *2001, and every 2 years thereafter, the Com-*  
16           *mission shall report to Congress on the sta-*  
17           *tus of digital television conversion in each*  
18           *television market. In preparing this report,*  
19           *the Commission shall consult with other de-*  
20           *partments and agencies of the Federal Gov-*  
21           *ernment. The report shall contain the fol-*  
22           *lowing information:*

23                    *“(I) Actual consumer purchases of*  
24                    *analog and digital television receivers,*  
25                    *including the price, availability, and*

1           *use of conversion equipment to allow*  
2           *analog sets to receive a digital signal.*

3           “(II) *The percentage of television*  
4           *households in each market that has ac-*  
5           *cess to digital local television signals*  
6           *as defined in paragraph (a)(1), wheth-*  
7           *er such access is attained by direct off-*  
8           *air reception or by some other means.*

9           “(III) *The cost to consumers of*  
10           *purchasing digital television receivers*  
11           *(or conversion equipment to prevent*  
12           *obsolescence of existing analog equip-*  
13           *ment) and other related changes in the*  
14           *marketplace, such as increases in the*  
15           *cost of cable converter boxes.*

16           “(B) *SPECTRUM REVERSION AND RESALE.—*

17           “(i) *The Commission shall—*

18           “(I) *ensure that, as analog tele-*  
19           *vision licenses expire pursuant to sub-*  
20           *paragraph (A)(i), each broadcaster*  
21           *shall return electromagnetic spectrum*  
22           *according to the Commission’s direc-*  
23           *tion; and*

24           “(II) *reclaim and organize the*  
25           *electromagnetic spectrum in a manner*

1           to maximize the deployment of new  
2           and existing services.

3           “(ii) Licensees for new services occupy-  
4           ing electromagnetic spectrum previously  
5           used for the broadcast of analog television  
6           shall be selected by competitive bidding. The  
7           Commission shall start the competitive bid-  
8           ding process by July 1, 2001, with payment  
9           pursuant to the competitive bidding rules  
10          established by the Commission. The Com-  
11          mission shall report the total revenues from  
12          the competitive bidding by January 1,  
13          2002.

14          “(C) DEFINITIONS.—As used in this para-  
15          graph—

16                 “(i) the term ‘digital television serv-  
17                 ices’ means television services provided  
18                 using digital technology to enhance audio  
19                 quality and video resolution, as further de-  
20                 fined in the Memorandum Opinion, Report,  
21                 and Order of the Commission entitled ‘Ad-  
22                 vanced Television Systems and Their Im-  
23                 pact Upon the Existing Television Service’,  
24                 MM Docket No. 87–268 and any subsequent

1           *Commission proceedings dealing with digi-*  
2           *tal television; and*

3                   “(ii) *the term ‘analog television li-*  
4                   *censes’ means licenses issued pursuant to 47*  
5                   *CFR 73.682 et seq.’.*”

6   **SEC. 3003. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC**  
7                   **SAFETY AND COMMERCIAL LICENSES.**

8           *(a) IN GENERAL.—The Federal Communications Com-*  
9           *mission, not later than January 1, 1998, shall allocate from*  
10           *electromagnetic spectrum between 746 megahertz and 806*  
11           *megahertz—*

12                   (1) *24 megahertz of that spectrum for public*  
13                   *safety services according to terms and conditions es-*  
14                   *tablished by the Commission, in consultation with the*  
15                   *Secretary of Commerce and the Attorney General; and*

16                   (2) *36 megahertz of that spectrum for commer-*  
17                   *cial purposes to be assigned by competitive bidding.*

18           *(b) ASSIGNMENT.—The Commission shall—*

19                   (1) *commence assignment of the licenses for pub-*  
20                   *lic safety created pursuant to subsection (a) no later*  
21                   *than September 30, 1998; and*

22                   (2) *commence competitive bidding for the com-*  
23                   *mmercial licenses created pursuant to subsection (a) no*  
24                   *later than March 31, 1998.*

1           (c) *LICENSING OF UNUSED FREQUENCIES FOR PUBLIC*  
2 *SAFETY RADIO SERVICES.*—

3           (1) *USE OF UNUSED CHANNELS FOR PUBLIC*  
4 *SAFETY.*—*It shall be the policy of the Federal Com-*  
5 *munications Commission, notwithstanding any other*  
6 *provision of this Act or any other law, to waive what-*  
7 *ever licensee eligibility and other requirements (in-*  
8 *cluding bidding requirements) are applicable in order*  
9 *to permit the use of unassigned frequencies for public*  
10 *safety purposes by a State or local government agency*  
11 *upon a showing that—*

12                   (A) *no other existing satisfactory public*  
13 *safety channel is immediately available to satisfy*  
14 *the requested use;*

15                   (B) *the proposed use is technically feasible*  
16 *without causing harmful interference to existing*  
17 *stations in the frequency band entitled to protec-*  
18 *tion from such interference under the rules of the*  
19 *Commission; and*

20                   (C) *use of the channel for public safety pur-*  
21 *poses is consistent with other existing public*  
22 *safety channel allocations in the geographic area*  
23 *of proposed use.*

24           (2) *APPLICABILITY.*—*Paragraph (1) shall apply*  
25 *to any application—*

1           (A) is pending before the Commission on the  
2           date of enactment of this Act;

3           (B) was not finally determined under sec-  
4           tion 402 or 405 of the Communications Act of  
5           1934 (47 U.S.C. 402 or 405) on May 15, 1997;  
6           or

7           (C) is filed after May 15, 1997.

8           (d) *PROTECTION OF BROADCAST TV LICENSEES DUR-*  
9 *ING DIGITAL TRANSITION.*—Public safety and commercial  
10 *licenses granted pursuant to this subsection—*

11           (1) shall enjoy flexibility in use, subject to—

12           (A) interference limits set by the Commis-  
13           sion at the boundaries of the electromagnetic  
14           spectrum block and service area; and

15           (B) any additional technical restrictions  
16           imposed by the Commission to protect full-service  
17           analog and digital television licenses during a  
18           transition to digital television;

19           (2) may aggregate multiple licenses to create  
20           larger spectrum blocks and service areas;

21           (3) may disaggregate or partition licenses to cre-  
22           ate smaller spectrum blocks or service areas; and

23           (4) may transfer a license to any other person  
24           qualified to be a licensee.

1           (e) *PROTECTION OF PUBLIC SAFETY LICENSEES DUR-*  
2 *ING DIGITAL TRANSITION.*—*The Commission shall establish*  
3 *rules insuring that public safety licensees using spectrum*  
4 *reallocated pursuant to subsection (a)(1) shall not be subject*  
5 *to harmful interference from television broadcast licensees.*

6           (f) *DIGITAL TELEVISION ALLOTMENT.*—*In assigning*  
7 *temporary transitional digital licenses, the Commission*  
8 *shall—*

9                   (1) *minimize the number of allotments between*  
10                   746 and 806 megahertz and maximize the amount of  
11                   spectrum available for public safety and new services;

12                   (2) *minimize the number of allotments between*  
13                   698 and 746 megahertz in order to facilitate the re-  
14                   covery of spectrum at the end of the transition;

15                   (3) *consider minimizing the number of allot-*  
16                   ments between 54 and 72 megahertz to facilitate the  
17                   recovery of spectrum at the end of the transition; and

18                   (4) *develop an allotment plan designed to recover*  
19                   78 megahertz of spectrum to be assigned by competi-  
20                   tive bidding, in addition to the 60 megahertz identi-  
21                   fied in paragraph (a) of this subsection.

22           (g) *INCUMBENT BROADCAST LICENSEES.*—*Any person*  
23 *who holds an analog television license or a digital television*  
24 *license between 746 and 806 megahertz—*

1           (1) *may not operate at that frequency after the*  
2 *date on which the digital television services transition*  
3 *period terminates, as determined by the Commission;*  
4 *and*

5           (2) *shall surrender immediately the license or*  
6 *permit to construct pursuant to Commission rules.*

7           (h) *DEFINITIONS.—For purposes of this section:*

8           (1) *COMMISSION.—The term “Commission”*  
9 *means the Federal Communications Commission.*

10          (2) *DIGITAL TELEVISION (DTV) SERVICE.—The*  
11 *term “digital television (DTV) service” means terres-*  
12 *trial broadcast services provided using digital tech-*  
13 *nology to enhance audio quality and video resolution,*  
14 *as further defined in the Memorandum Opinion, Re-*  
15 *port, and Order of the Commission entitled “Ad-*  
16 *vanced Television Systems and Their Impact Upon*  
17 *the Existing Television Service”, MM Docket No. 87–*  
18 *268, or subsequent findings of the Commission.*

19          (3) *DIGITAL TELEVISION LICENSE.—The term*  
20 *“digital television license” means a full-service license*  
21 *issued pursuant to rules adopted for digital television*  
22 *service.*

23          (4) *ANALOG TELEVISION LICENSE.—The term*  
24 *“analog television license” means a full-service license*  
25 *issued pursuant to 47 CFR 73.682 et seq.*

1           (5) *PUBLIC SAFETY SERVICES.*—*The term “public*  
2 *safety services” means services whose sole or prin-*  
3 *cipal purpose is to protect the safety of life, health,*  
4 *or property.*

5           (6) *SERVICE AREA.*—*The term “service area”*  
6 *means the geographic area over which a licensee may*  
7 *provide service and is protected from interference.*

8           (7) *SPECTRUM BLOCK.*—*The term “spectrum*  
9 *block” means the range of frequencies over which the*  
10 *apparatus licensed by the Commission is authorized*  
11 *to transmit signals.*

12 **SEC. 3004. FLEXIBLE USE OF ELECTROMAGNETIC SPEC-**  
13 **TRUM.**

14           *Section 303 of the Communications Act of 1934 (47*  
15 *U.S.C. 303) is amended by adding at the end thereof the*  
16 *following:*

17           “(y) *Shall allocate electromagnetic spectrum so as to*  
18 *provide flexibility of use, except—*

19                   “(1) *as required by international agreements re-*  
20 *lating to global satellite systems or other tele-*  
21 *communication services to which the United States is*  
22 *a party;*

23                   “(2) *as required by public safety allocations;*

24                   “(3) *to the extent that the Commission finds,*  
25 *after notice and an opportunity for public comment,*

1       *that such an allocation would not be in the public in-*  
2       *terest;*

3             “(4) *to the extent that flexible use would retard*  
4       *investment in communications services and systems,*  
5       *or technology development thereby lessening the value*  
6       *of the electromagnetic spectrum; or*

7             “(5) *to the extent that flexible use would result*  
8       *in harmful interference among users.”.*

9       **SEC. 3005. RESERVE PRICE.**

10       *In any auction conducted or supervised by the Federal*  
11       *Communications Commission (hereinafter the Commission)*  
12       *for any license, permit or right which has value, a reason-*  
13       *able reserve price shall be set by the Commission for each*  
14       *unit in the auction unless the Commission determines it*  
15       *not to be in the public interest. The reserve price shall estab-*  
16       *lish a minimum bid for the unit to be auctioned. If no bid*  
17       *is received above the reserve price for a unit, the unit shall*  
18       *be retained. The Commission shall re-assess the reserve price*  
19       *for that unit and place the unit in the next scheduled or*  
20       *next appropriate auction.*

21                   **SUBTITLE B—MERCHANT**  
22                   **MARINE PROVISIONS**

23       **SEC. 3501. EXTENSION OF VESSEL TONNAGE DUTIES.**

24        (a) *EXTENSION OF DUTIES.*—*Section 36 of the Act of*  
25        *August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is*

1 amended by inserting “1999, 2000, 2001, and 2002,” after  
2 “1998,” each place it appears.

3 (b) *CONFORMING AMENDMENT.*—*The Act of March 8,*  
4 *1910 (36 Stat. 234; 46 U.S.C. 132), is amended by striking*  
5 *“and 1998,” and inserting “1998, 1999, 2000, 2001, and*  
6 *2002,”.*

7 **TITLE IV—COMMITTEE ON EN-**  
8 **ERGY AND NATURAL RE-**  
9 **SOURCES**

10 **SEC. 4001. LEASE OF EXCESS STRATEGIC PETROLEUM RE-**  
11 **SERVE CAPACITY.**

12 *Part B of title I of the Energy Policy and Conservation*  
13 *Act (42 U.S.C. 6231 et seq.) is amended by adding at the*  
14 *end the following new section:*

15 **“USE OF UNDERUTILIZED FACILITIES**

16 **“SEC. 168. Notwithstanding section 649(b) of the De-**  
17 **partment of Energy Organization Act (42 U.S.C. 7259(b)),**  
18 **the Secretary is authorized to store in underutilized Strate-**  
19 **gic Petroleum Reserve facilities, by lease or otherwise, petro-**  
20 **leum product owned by a foreign government or its rep-**  
21 **resentative: Provided, That funds resulting from the leasing**  
22 **or other use of a Reserve facility on or after October 1, 2007,**  
23 **shall be available to the Secretary, without further appro-**  
24 **priation, for the purchase of petroleum products for the Re-**  
25 **serve: Provided further, That petroleum product stored**  
26 **under this section is not part of the Strategic Petroleum**

1 *Reserve, is not subject to part C of this title, and notwith-*  
2 *standing any provision of this Act, may be exported from*  
3 *the United States.”.*

## 4 **TITLE V—COMMITTEE ON** 5 **FINANCE**

### 6 **SEC. 5000. AMENDMENTS TO SOCIAL SECURITY ACT AND** 7 **REFERENCES TO OBRA; TABLE OF CONTENTS** 8 **OF TITLE.**

9 (a) *AMENDMENTS TO SOCIAL SECURITY ACT.—Except*  
10 *as otherwise specifically provided, whenever in this title an*  
11 *amendment is expressed in terms of an amendment to or*  
12 *repeal of a section or other provision, the reference shall*  
13 *be considered to be made to that section or other provision*  
14 *of the Social Security Act.*

15 (b) *REFERENCES TO OBRA.—In this title, the terms*  
16 *“OBRA–1986”, “OBRA–1987”, “OBRA–1989”, “OBRA–*  
17 *1990”, and “OBRA–1993” refer to the Omnibus Budget*  
18 *Reconciliation Act of 1986 (Public Law 99–509), the Omni-*  
19 *bus Budget Reconciliation Act of 1987 (Public Law 100–*  
20 *203), the Omnibus Budget Reconciliation Act of 1989 (Pub-*  
21 *lic Law 101–239), the Omnibus Budget Reconciliation Act*  
22 *of 1990 (Public Law 101–508), and the Omnibus Budget*  
23 *Reconciliation Act of 1993 (Public Law 103–66), respec-*  
24 *tively.*

- 1           (c) *TABLE OF CONTENTS.*—*The table of contents of this*  
 2 *title is as follows:*

*TITLE V—COMMITTEE ON FINANCE*

*Sec. 5000. Amendments to Social Security Act and references to OBRA; table of contents of title.*

*Sec. 5000A. Extension of moratorium.*

*DIVISION 1—MEDICARE*

*Subtitle A—Medicare Choice Program*

*CHAPTER 1—MEDICARE CHOICE PROGRAM*

*SUBCHAPTER A—MEDICARE CHOICE PROGRAM*

*Sec. 5001. Establishment of Medicare Choice program.*

*“PART C—MEDICARE CHOICE PROGRAM*

*“Sec. 1851. Eligibility, election, and enrollment.*

*“Sec. 1852. Benefits and beneficiary protections.*

*“Sec. 1853. Payments to Medicare Choice organizations.*

*“Sec. 1854. Premiums.*

*“Sec. 1855. Organizational and financial requirements for Medicare Choice organizations; provider-sponsored organizations.*

*“Sec. 1856. Establishment of standards.*

*“Sec. 1857. Contracts with Medicare Choice organizations.*

*“Sec. 1859. Definitions; miscellaneous provisions.*

*Sec. 5002. Transitional rules for current medicare HMO program.*

*Sec. 5003. Conforming changes in Medigap program.*

*SUBCHAPTER B—SPECIAL RULES FOR MEDICARE CHOICE MEDICAL SAVINGS ACCOUNTS*

*Sec. 5006. Medicare Choice MSA.*

*CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS*

*SUBCHAPTER A—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)*

*Sec. 5011. Coverage of PACE under the medicare program.*

*Sec. 5012. Effective date; transition.*

*Sec. 5013. Study and reports.*

*SUBCHAPTER B—SOCIAL HEALTH MAINTENANCE ORGANIZATIONS*

*Sec. 5015. Social health maintenance organizations (SHMOs).*

*SUBCHAPTER C—OTHER PROGRAMS*

*Sec. 5018. Extension of certain medicare community nursing organization demonstration projects.*

*CHAPTER 3—COMMISSIONS*

*Sec. 5021. National Bipartisan Commission on the Future of Medicare.*

*Sec. 5022. Medicare Payment Advisory Commission.*

## CHAPTER 4—MEDIGAP PROTECTIONS

*Sec. 5031. Medigap protections.*

*Sec. 5032. Addition of high deductible Medigap policy.*

## CHAPTER 5—DEMONSTRATIONS

## SUBCHAPTER A—MEDICARE CHOICE COMPETITIVE PRICING DEMONSTRATION PROJECT

## PART I—IN GENERAL

*Sec. 5041. Medicare Choice competitive pricing demonstration project.*

*Sec. 5042. Determination of annual Medicare Choice capitation rates.*

*Sec. 5043. Benefits and beneficiary premiums.*

## PART II—INFORMATION AND QUALITY STANDARDS

## SUBPART A—INFORMATION

*Sec. 5044. Information requirements.*

## SUBPART B—QUALITY IN DEMONSTRATION PLANS

*Sec. 5044A. Definitions.*

*Sec. 5044B. Quality Advisory Institute.*

*Sec. 5044C. Duties of Director.*

*Sec. 5044D. Compliance.*

*Sec. 5044E. Payments for value.*

*Sec. 5044F. Certification requirement.*

*Sec. 5044G. Licensing of certification entities.*

*Sec. 5044H. Certification criteria.*

*Sec. 5044I. Grievance and appeals.*

## SUBCHAPTER B—OTHER PROJECTS

*Sec. 5045. Medicare enrollment demonstration project.*

*Sec. 5046. Medicare coordinated care demonstration project.*

*Sec. 5047. Establishment of medicare reimbursement demonstration projects.*

## CHAPTER 6—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

*Sec. 5049. Tax treatment of hospitals which participate in provider-sponsored organizations.*

## Subtitle B—Prevention Initiatives

*Sec. 5101. Annual screening mammography for women over age 39.*

*Sec. 5102. Coverage of colorectal screening.*

*Sec. 5103. Diabetes screening tests.*

*Sec. 5104. Coverage of bone mass measurements.*

*Sec. 5105. Study on medical nutrition therapy services.*

## Subtitle C—Rural Initiatives

*Sec. 5151. Sole community hospitals.*

*Sec. 5152. Medicare-dependent, small rural hospital payment extension.*

*Sec. 5153. Medicare rural hospital flexibility program.*

- Sec. 5154. Prohibiting denial of request by rural referral centers for reclassification on basis of comparability of wages.*
- Sec. 5155. Rural health clinic services.*
- Sec. 5156. Medicare reimbursement for telehealth services.*
- Sec. 5157. Telemedicine, informatics, and education demonstration project.*

*Subtitle D—Anti-Fraud and Abuse Provisions and Improvements in Protecting Program Integrity*

*CHAPTER 1—REVISIONS TO SANCTIONS FOR FRAUD AND ABUSE*

- Sec. 5201. Authority to refuse to enter into medicare agreements with individuals or entities convicted of felonies.*
- Sec. 5202. Exclusion of entity controlled by family member of a sanctioned individual.*
- Sec. 5203. Imposition of civil money penalties.*

*CHAPTER 2—IMPROVEMENTS IN PROTECTING PROGRAM INTEGRITY*

- Sec. 5211. Disclosure of information, surety bonds, and accreditation.*
- Sec. 5212. Provision of certain identification numbers.*
- Sec. 5213. Application of certain provisions of the bankruptcy code.*
- Sec. 5214. Replacement of reasonable charge methodology by fee schedules.*
- Sec. 5215. Application of inherent reasonableness to all part B services other than physicians' services.*
- Sec. 5216. Requirement to furnish diagnostic information.*
- Sec. 5217. Report by GAO on operation of fraud and abuse control program.*
- Sec. 5218. Competitive bidding.*
- Sec. 5219. Improving information to medicare beneficiaries.*
- Sec. 5220. Prohibiting unnecessary and wasteful medicare payments for certain items.*
- Sec. 5221. Reducing excessive billings and utilization for certain items.*
- Sec. 5222. Improving information to medicare beneficiaries.*
- Sec. 5223. Prohibiting unnecessary and wasteful medicare payments for certain items.*
- Sec. 5224. Reducing excessive billings and utilization for certain items.*
- Sec. 5225. Improved carrier authority to reduce excessive medicare payments.*
- Sec. 5226. Itemization of surgical dressing bills submitted by home health agencies.*

*CHAPTER 3—CLARIFICATIONS AND TECHNICAL CHANGES*

- Sec. 5231. Other fraud and abuse related provisions.*

*Subtitle E—Prospective Payment Systems*

*CHAPTER 1—PROVISIONS RELATING TO PART A*

- Sec. 5301. Prospective payment for inpatient rehabilitation hospital services.*
- Sec. 5302. Study and report on payments for long-term care hospitals.*

*CHAPTER 2—PROVISIONS RELATING TO PART B*

*SUBCHAPTER A—PAYMENT FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES*

- Sec. 5311. Elimination of formula-driven overpayments (FDO) for certain outpatient hospital services.*

*Sec. 5312. Extension of reductions in payments for costs of hospital outpatient services.*

*Sec. 5313. Prospective payment system for hospital outpatient department services.*

*SUBCHAPTER B—AMBULANCE SERVICES*

*Sec. 5321. Payments for ambulance services.*

*CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B*

*SUBCHAPTER A—PAYMENTS TO SKILLED NURSING FACILITIES*

*Sec. 5331. Extension of cost limits.*

*Sec. 5332. Prospective payment for skilled nursing facility services.*

*SUBCHAPTER B—HOME HEALTH SERVICES AND BENEFITS*

*PART I—PAYMENTS FOR HOME HEALTH SERVICES*

*Sec. 5341. Recapturing savings resulting from temporary freeze on payment increases for home health services.*

*Sec. 5342. Interim payments for home health services.*

*Sec. 5343. Prospective payment for home health services.*

*Sec. 5344. Payment based on location where home health service is furnished.*

*PART II—HOME HEALTH BENEFITS*

*Sec. 5361. Modification of part A home health benefit for individuals enrolled under part B.*

*Sec. 5362. Imposition of \$5 copayment for part B home health services.*

*Sec. 5363. Clarification of part-time or intermittent nursing care.*

*Sec. 5364. Study on definition of homebound.*

*Sec. 5365. Normative standards for home health claims denials.*

*Sec. 5366. Inclusion of cost of service in explanation of medicare benefits.*

*Subtitle F—Provisions Relating to Part A*

*CHAPTER 1—PAYMENT OF PPS HOSPITALS*

*Sec. 5401. PPS hospital payment update.*

*Sec. 5402. Capital payments for PPS hospitals.*

*CHAPTER 2—PAYMENT OF PPS EXEMPT HOSPITALS*

*Sec. 5421. Payment update.*

*Sec. 5422. Reductions to capital payments for certain PPS-exempt hospitals and units.*

*Sec. 5423. Cap on TEFRA limits.*

*Sec. 5424. Change in bonus and relief payments.*

*Sec. 5425. Target amounts for rehabilitation hospitals, long-term care hospitals, and psychiatric hospitals.*

*Sec. 5426. Treatment of certain long-term care hospitals located within other hospitals.*

*Sec. 5426A. Rebasing.*

*Sec. 5427. Elimination of exemptions; report on exceptions and adjustments.*

*Sec. 5428. Technical correction relating to subsection (d) hospitals.*

*Sec. 5429. Certain cancer hospitals.*

## CHAPTER 3—GRADUATE MEDICAL EDUCATION PAYMENTS

## SUBCHAPTER A—DIRECT MEDICAL EDUCATION

- Sec. 5441. Limitation on number of residents and rolling average FTE count.*  
*Sec. 5442. Permitting payment to nonhospital providers.*  
*Sec. 5443. Medicare special reimbursement rule for primary care combined residency programs.*

## SUBCHAPTER B—INDIRECT MEDICAL EDUCATION

- Sec. 5446. Indirect graduate medical education payments.*

## SUBCHAPTER C—GRADUATE MEDICAL EDUCATION PAYMENTS FOR MANAGED CARE ENROLLEES

- Sec. 5451. Direct and indirect medical education payments to hospitals for managed care enrollees.*  
*Sec. 5452. Demonstration project on use of consortia.*

## CHAPTER 4—OTHER HOSPITAL PAYMENTS

- Sec. 5461. Disproportionate share payments to hospitals for managed care and Medicare Choice enrollees.*  
*Sec. 5462. Reform of disproportionate share payments to hospitals serving vulnerable populations.*  
*Sec. 5463. Medicare capital asset sales price equal to book value.*  
*Sec. 5464. Elimination of IME and DSH payments attributable to outlier payments.*  
*Sec. 5465. Treatment of transfer cases.*  
*Sec. 5466. Reductions in payments for enrollee bad debt.*  
*Sec. 5467. Floor on area wage index.*  
*Sec. 5468. Increase base payment rate to Puerto Rico hospitals.*  
*Sec. 5469. Permanent extension of hemophilia pass-through.*  
*Sec. 5470. Coverage of services in religious nonmedical health care institutions under the medicare and medicaid programs.*

## CHAPTER 5—PAYMENTS FOR HOSPICE SERVICES

- Sec. 5481. Payment for home hospice care based on location where care is furnished.*  
*Sec. 5482. Hospice care benefits periods.*  
*Sec. 5483. Other items and services included in hospice care.*  
*Sec. 5484. Contracting with independent physicians or physician groups for hospice care services permitted.*  
*Sec. 5485. Waiver of certain staffing requirements for hospice care programs in non-urbanized areas.*  
*Sec. 5486. Limitation on liability of beneficiaries for certain hospice coverage denials.*  
*Sec. 5487. Extending the period for physician certification of an individual's terminal illness.*  
*Sec. 5488. Effective date.*

## Subtitle G—Provisions Relating to Part B Only

## CHAPTER 1—PAYMENTS FOR PHYSICIANS AND OTHER HEALTH CARE PROVIDERS

- Sec. 5501. Establishment of single conversion factor for 1998.*

- Sec. 5502. Establishing update to conversion factor to match spending under sustainable growth rate.*
- Sec. 5503. Replacement of volume performance standard with sustainable growth rate.*
- Sec. 5504. Payment rules for anesthesia services.*
- Sec. 5505. Implementation of resource-based methodologies.*
- Sec. 5506. Increased medicare reimbursement for nurse practitioners and clinical nurse specialists.*
- Sec. 5507. Increased medicare reimbursement for physician assistants.*

*CHAPTER 2—OTHER PAYMENT PROVISIONS*

- Sec. 5521. Reduction in updates to payment amounts for clinical diagnostic laboratory tests; study on laboratory services.*
- Sec. 5522. Improvements in administration of laboratory services benefit.*
- Sec. 5523. Payments for durable medical equipment.*
- Sec. 5524. Oxygen and oxygen equipment.*
- Sec. 5525. Updates for ambulatory surgical services.*
- Sec. 5526. Reimbursement for drugs and biologicals.*

*CHAPTER 3—PART B PREMIUM AND RELATED PROVISIONS*

- Sec. 5541. Part B premium.*
- Sec. 5542. Income-related reduction in medicare subsidy.*
- Sec. 5543. Demonstration project on income-related part B deductible.*
- Sec. 5544. Low-income medicare beneficiary block grant program.*

*Subtitle H—Provisions Relating to Parts A and B*

*CHAPTER 1—SECONDARY PAYOR PROVISIONS*

- Sec. 5601. Extension and expansion of existing requirements.*
- Sec. 5602. Improvements in recovery of payments.*

*CHAPTER 2—OTHER PROVISIONS*

- Sec. 5611. Conforming age for eligibility under medicare to retirement age for social security benefits.*
- Sec. 5612. Increased certification period for certain organ procurement organizations.*
- Sec. 5613. Facilitating the use of private contracts under the medicare program.*

*Subtitle I—Miscellaneous Provisions*

- Sec. 5651. Inclusion of Stanly County, N.C. in a large urban area under medicare program.*
- Sec. 5652. Medicare anti-duplication provision.*

*DIVISION 2—MEDICAID AND CHILDREN'S HEALTH INSURANCE INITIATIVES*

*Subtitle I—Medicaid*

*CHAPTER 1—MEDICAID SAVINGS*

*SUBCHAPTER A—MANAGED CARE REFORMS*

- Sec. 5701. State option for mandatory managed care.*

*“PART B—PROVISIONS RELATING TO MANAGED CARE**“Sec. 1941. Beneficiary choice; enrollment.**“Sec. 1942. Beneficiary access to services generally.**“Sec. 1943. Requirements for access to emergency care.**“Sec. 1944. Other beneficiary protections.**“Sec. 1945. Assuring quality care.**“Sec. 1946. Protections for providers.**“Sec. 1947. Assuring adequacy of payments to medicaid managed care organizations and entities.**“Sec. 1948. Fraud and abuse.**“Sec. 1949. Sanctions for noncompliance by managed care entities.**“Sec. 1950. Definitions; miscellaneous provisions.”.**Sec. 5702. Primary care case management services as State option without need for waiver.**Sec. 5703. Additional reforms to expand and simplify managed care.**SUBCHAPTER B—MANAGEMENT FLEXIBILITY REFORMS**Sec. 5711. Elimination of Boren amendment requirements for provider payment rates.**Sec. 5712. Medicaid payment rates for qualified medicare beneficiaries.**SUBCHAPTER C—REDUCTION OF DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS**Sec. 5721. Disproportionate share hospital (DSH) payments.**CHAPTER 2—EXPANSION OF MEDICAID ELIGIBILITY**Sec. 5731. State option to permit workers with disabilities to buy into medicaid.**Sec. 5732. 12-month continuous eligibility for children.**CHAPTER 3—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)**Sec. 5741. Establishment of PACE program as medicaid State option.**Sec. 5742. Effective date; transition.**Sec. 5743. Study and reports.**CHAPTER 4—MEDICAID MANAGEMENT AND PROGRAM REFORMS**Sec. 5751. Elimination of requirement to pay for private insurance.**Sec. 5752. Elimination of obstetrical and pediatric payment rate requirements.**Sec. 5753. Physician qualification requirements.**Sec. 5754. Expanded cost-sharing requirements.**Sec. 5755. Penalty for fraudulent eligibility.**Sec. 5756. Elimination of waste, fraud, and abuse.**Sec. 5757. Study on EPSDT benefits.**Sec. 5758. Study and guidelines regarding managed care organizations and individuals with special health care needs.**CHAPTER 5—MISCELLANEOUS**Sec. 5761. Increased FMAPs.**Sec. 5762. Increase in payment caps for territories.**Sec. 5763. Community-based mental health services.**Sec. 5764. Optional medicaid coverage of certain CDC-screened breast cancer patients.*

- Sec. 5765. Treatment of State taxes imposed on certain hospitals that provide free care.*
- Sec. 5766. Treatment of veterans pensions under medicaid.*
- Sec. 5767. Removal of name from nurse aide registry.*
- Sec. 5768. Waiver of certain provider tax provisions.*
- Sec. 5769. Continuation of State-wide section 1115 medicaid waivers.*
- Sec. 5770. Effective date.*

*Subtitle J—Children’s Health Insurance Initiatives*

- Sec. 5801. Establishment of children’s health insurance initiatives.*

*“TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES*

- “Sec. 2101. Purpose.*
- “Sec. 2102. Definitions.*
- “Sec. 2103. Appropriation.*
- “Sec. 2104. Program outline.*
- “Sec. 2105. Distribution of funds.*
- “Sec. 2106. Use of funds.*
- “Sec. 2107. State option for the purchase or provision of children’s health insurance.*
- “Sec. 2108. Program integrity.*
- “Sec. 2109. Annual reports.”.*

*DIVISION 3—INCOME SECURITY AND OTHER PROVISIONS*

*Subtitle K—Income Security, Welfare-to-Work Grant Program, and Other Provisions*

*CHAPTER 1—INCOME SECURITY*

- Sec. 5811. SSI eligibility for aliens receiving SSI on August 22, 1996.*
- Sec. 5812. Extension of eligibility period for refugees and certain other qualified aliens from 5 to 7 years for SSI and medicaid.*
- Sec. 5813. Exceptions for certain Indians from limitation on eligibility for supplemental security income and medicaid benefits.*
- Sec. 5814. SSI eligibility for disabled legal aliens in the United States on August 22, 1996.*
- Sec. 5815. Exemption from restriction on supplemental security income program participation by certain recipients eligible on the basis of very old applications.*
- Sec. 5816. Reinstatement of eligibility for benefits.*
- Sec. 5817. Exemption for children who are legal aliens from 5-year ban on medicaid eligibility.*
- Sec. 5818. Treatment of certain Amerasian immigrants as refugees.*
- Sec. 5819. SSI eligibility for severely disabled aliens.*
- Sec. 5820. Effective date.*

*CHAPTER 2—WELFARE-TO-WORK GRANT PROGRAM*

- Sec. 5821. Welfare-to-work grants.*
- Sec. 5822. Clarification of a State’s ability to sanction an individual receiving assistance under TANF for noncompliance.*

*CHAPTER 3—UNEMPLOYMENT COMPENSATION*

- Sec. 5831. Increase in Federal unemployment account ceiling.*

- Sec. 5832. Special distribution to States from unemployment trust fund.*  
*Sec. 5833. Treatment of certain services performed by inmates.*

*DIVISION 4—EARNED INCOME CREDIT AND OTHER PROVISIONS*

*Subtitle L—Earned Income Credit and Other Provisions*

*CHAPTER 1—EARNED INCOME CREDIT*

- Sec. 5851. Restrictions on availability of earned income credit for taxpayers who improperly claimed credit in prior year.*

*CHAPTER 2—INCREASE IN PUBLIC DEBT LIMIT*

- Sec. 5861. Increase in public debt limit.*

*CHAPTER 3—MISCELLANEOUS*

- Sec. 5871. Sense of the Senate regarding the correction of cost-of-living adjustments.*

*Subtitle M—Welfare Reform Technical Corrections*

- Sec. 5900. Short title of subtitle.*

*CHAPTER 1—BLOCK GRANTS FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES*

- Sec. 5901. Amendment of the Social Security Act.*  
*Sec. 5902. Eligible States; State plan.*  
*Sec. 5903. Grants to States.*  
*Sec. 5904. Use of grants.*  
*Sec. 5905. Mandatory work requirements.*  
*Sec. 5906. Prohibitions; requirements.*  
*Sec. 5907. Penalties.*  
*Sec. 5908. Data collection and reporting.*  
*Sec. 5909. Direct funding and administration by Indian tribes.*  
*Sec. 5910. Research, evaluations, and national studies.*  
*Sec. 5911. Report on data processing.*  
*Sec. 5912. Study on alternative outcomes measures.*  
*Sec. 5913. Limitation on payments to the territories.*  
*Sec. 5914. Conforming amendments to the Social Security Act.*  
*Sec. 5915. Other conforming amendments.*  
*Sec. 5916. Modifications to the job opportunities for certain low-income individuals program.*  
*Sec. 5917. Denial of assistance and benefits for drug-related convictions.*  
*Sec. 5918. Transition rule.*  
*Sec. 5919. Protecting victims of family violence.*  
*Sec. 5920. Effective dates.*

*CHAPTER 2—SUPPLEMENTAL SECURITY INCOME*

- Sec. 5921. Conforming and technical amendments relating to eligibility restrictions.*  
*Sec. 5922. Conforming and technical amendments relating to benefits for disabled children.*  
*Sec. 5923. Additional technical amendments to title XVI.*  
*Sec. 5924. Additional technical amendments relating to title XVI.*

*Sec. 5925. Effective dates.*

#### CHAPTER 3—CHILD SUPPORT

- Sec. 5935. State obligation to provide child support enforcement services.*  
*Sec. 5936. Distribution of collected support.*  
*Sec. 5937. Civil penalties relating to State directory of new hires.*  
*Sec. 5938. Federal Parent Locator Service.*  
*Sec. 5939. Access to registry data for research purposes.*  
*Sec. 5940. Collection and use of social security numbers for use in child support enforcement.*  
*Sec. 5941. Adoption of uniform State laws.*  
*Sec. 5942. State laws providing expedited procedures.*  
*Sec. 5943. Voluntary paternity acknowledgement.*  
*Sec. 5944. Calculation of paternity establishment percentage.*  
*Sec. 5945. Means available for provision of technical assistance and operation of Federal Parent Locator Service.*  
*Sec. 5946. Authority to collect support from Federal employees.*  
*Sec. 5947. Definition of support order.*  
*Sec. 5948. State law authorizing suspension of licenses.*  
*Sec. 5949. International support enforcement.*  
*Sec. 5950. Child support enforcement for Indian tribes.*  
*Sec. 5951. Continuation of rules for distribution of support in the case of a title IV-E child.*  
*Sec. 5952. Good cause in foster care and food stamp cases.*  
*Sec. 5953. Date of collection of support.*  
*Sec. 5954. Administrative enforcement in interstate cases.*  
*Sec. 5955. Work orders for arrearages.*  
*Sec. 5956. Additional technical State plan amendments.*  
*Sec. 5957. Federal case registry of child support orders.*  
*Sec. 5958. Full faith and credit for child support orders.*  
*Sec. 5959. Development costs of automated systems.*  
*Sec. 5960. Additional technical amendments.*  
*Sec. 5961. Effective date.*

#### CHAPTER 4—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

##### SUBCHAPTER A—ELIGIBILITY FOR FEDERAL BENEFITS

- Sec. 5965. Alien eligibility for Federal benefits: Limited application to medicare and benefits under the Railroad Retirement Act.*  
*Sec. 5966. Exceptions to benefit limitations: Corrections to reference concerning aliens whose deportation is withheld.*  
*Sec. 5967. Veterans exception: Application of minimum active duty service requirement; extension to unremarried surviving spouse; expanded definition of veteran.*  
*Sec. 5968. Correction of reference concerning Cuban and Haitian entrants.*  
*Sec. 5969. Notification concerning aliens not lawfully present: Correction of terminology.*  
*Sec. 5970. Freely associated States: Contracts and licenses.*  
*Sec. 5971. Congressional statement regarding benefits for Hmong and other Highland Lao veterans.*

##### SUBCHAPTER B—GENERAL PROVISIONS

- Sec. 5972. Determination of treatment of battered aliens as qualified aliens; inclusion of alien child of battered parent as qualified alien.*

*Sec. 5973. Verification of eligibility for benefits.*

*Sec. 5974. Qualifying quarters: Disclosure of quarters of coverage information; correction to assure that crediting applies to all quarters earned by parents before child is 18.*

*Sec. 5975. Statutory construction: Benefit eligibility limitations applicable only with respect to aliens present in the United States.*

*SUBCHAPTER C—MISCELLANEOUS CLERICAL AND TECHNICAL AMENDMENTS;  
EFFECTIVE DATE*

*Sec. 5976. Correcting miscellaneous clerical and technical errors.*

*Sec. 5977. Effective date.*

*CHAPTER 5—CHILD PROTECTION*

*Sec. 5981. Conforming and technical amendments relating to child protection.*

*Sec. 5982. Additional technical amendments relating to child protection.*

*Sec. 5983. Effective date.*

*CHAPTER 6—CHILD CARE*

*Sec. 5985. Conforming and technical amendments relating to child care.*

*Sec. 5986. Additional conforming and technical amendments.*

*Sec. 5987. Effective dates.*

*CHAPTER 7—ERISA AMENDMENTS RELATING TO MEDICAL CHILD SUPPORT  
ORDERS*

*Sec. 5991. Amendments relating to section 303 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.*

*Sec. 5992. Amendment relating to section 381 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.*

*Sec. 5993. Amendments relating to section 382 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.*

**1 SEC. 5000A. EXTENSION OF MORATORIUM.**

2        *Section 6408(a)(3) of the Omnibus Budget Reconcili-*  
3 *ation Act of 1989, as amended by section 13642 of the Om-*  
4 *nibus Budget Reconciliation Act of 1993 is amended by*  
5 *striking “December 31, 1995” and inserting “December 31,*  
6 *2002”.*

1           ***DIVISION 1—MEDICARE***  
 2           ***Subtitle A—Medicare Choice***  
 3           ***Program***

4           ***CHAPTER 1—MEDICARE CHOICE***  
 5           ***PROGRAM***

6           ***Subchapter A—Medicare Choice Program***

7           ***SEC. 5001. ESTABLISHMENT OF MEDICARE CHOICE PRO-***  
 8           ***GRAM.***

9           *Title XVIII is amended by redesignating part C as*  
 10 *part D and by inserting after part B the following new*  
 11 *part:*

12           “*PART C—MEDICARE CHOICE PROGRAM*

13           “*ELIGIBILITY, ELECTION, AND ENROLLMENT*

14           “*SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS*  
 15 *THROUGH MEDICARE CHOICE PLANS.—*

16           “*(1) IN GENERAL.—Subject to the provisions of*  
 17 *this section, each Medicare Choice eligible individual*  
 18 *(as defined in paragraph (3)) is entitled to elect to re-*  
 19 *ceive benefits under this title—*

20           “*(A) through the traditional medicare fee-*  
 21 *for-service program under parts A and B, or*

22           “*(B) through enrollment in a Medicare*  
 23 *Choice plan under this part.*

24           “*(2) TYPES OF MEDICARE CHOICE PLANS THAT*  
 25 *MAY BE AVAILABLE.—A Medicare Choice plan may be*

1        *any of the following types of plans of health insur-*  
2        *ance:*

3                *“(A) FEE-FOR-SERVICE PLANS.—A plan*  
4                *that reimburses hospitals, physicians, and other*  
5                *providers on the basis of a privately determined*  
6                *fee schedule or other basis.*

7                *“(B) PLANS OFFERED BY PREFERRED PRO-*  
8                *VIDER ORGANIZATIONS.—A Medicare Choice*  
9                *plan offered by a preferred provider organiza-*  
10               *tion.*

11               *“(C) POINT OF SERVICE PLANS.—A point of*  
12               *service plan.*

13               *“(D) PLANS OFFERED BY PROVIDER-SPON-*  
14               *SORED ORGANIZATION.—A Medicare Choice plan*  
15               *offered by a provider-sponsored organization, as*  
16               *defined in section 1855(e).*

17               *“(E) PLANS OFFERED BY HEALTH MAINTEN-*  
18               *NANCE ORGANIZATIONS.—A Medicare Choice*  
19               *plan offered by a health maintenance organiza-*  
20               *tion.*

21               *“(F) COMBINATION OF MSA PLAN AND CON-*  
22               *TRIBUTIONS TO MEDICARE CHOICE MSA.—An*  
23               *MSA plan, as defined in section 1859(b)(3), and*  
24               *a contribution into a Medicare Choice medical*  
25               *savings account (MSA).*

1           “(G) *OTHER HEALTH CARE PLANS.*—*Any*  
2 *other private plan for the delivery of health care*  
3 *items and services that is not described in a pre-*  
4 *ceding subparagraph.*

5           “(3) *MEDICARE CHOICE ELIGIBLE INDIVIDUAL.*—

6           “(A) *IN GENERAL.*—*In this title, subject to*  
7 *subparagraph (B), the term ‘Medicare Choice eli-*  
8 *gible individual’ means an individual who is en-*  
9 *titled to benefits under part A and enrolled*  
10 *under part B.*

11           “(B) *SPECIAL RULE FOR END-STAGE RENAL*  
12 *DISEASE.*—*Such term shall not include an indi-*  
13 *vidual medically determined to have end-stage*  
14 *renal disease, except that an individual who de-*  
15 *velops end-stage renal disease while enrolled in a*  
16 *Medicare Choice plan may continue to be en-*  
17 *rolled in that plan.*

18           “(b) *SPECIAL RULES.*—

19           “(1) *RESIDENCE REQUIREMENT.*—

20           “(A) *IN GENERAL.*—*Except as the Secretary*  
21 *may otherwise provide, an individual is eligible*  
22 *to elect a Medicare Choice plan offered by a Med-*  
23 *icare Choice organization only if the plan serves*  
24 *the geographic area in which the individual re-*  
25 *sides.*

1           “(B) *CONTINUATION OF ENROLLMENT PER-*  
2           *MITTED.—Pursuant to rules specified by the Sec-*  
3           *retary, the Secretary shall provide that an indi-*  
4           *vidual may continue enrollment in a plan, not-*  
5           *withstanding that the individual no longer re-*  
6           *sides in the service area of the plan, so long as*  
7           *the plan provides benefits for enrollees located in*  
8           *the area in which the individual resides.*

9           “(2) *SPECIAL RULE FOR CERTAIN INDIVIDUALS*  
10          *COVERED UNDER FEHBP OR ELIGIBLE FOR VETERANS*  
11          *OR MILITARY HEALTH BENEFITS, VETERANS.—*

12           “(A) *FEHBP.—An individual who is en-*  
13           *rolled in a health benefit plan under chapter 89*  
14           *of title 5, United States Code, is not eligible to*  
15           *enroll in an MSA plan until such time as the*  
16           *Director of the Office of Management and Budget*  
17           *certifies to the Secretary that the Office of Per-*  
18           *sonnel Management has adopted policies which*  
19           *will ensure that the enrollment of such individ-*  
20           *uals in such plans will not result in increased*  
21           *expenditures for the Federal Government for*  
22           *health benefit plans under such chapter.*

23           “(B) *VA AND DOD.—The Secretary may*  
24           *apply rules similar to the rules described in sub-*  
25           *paragraph (A) in the case of individuals who are*

1           *eligible for health care benefits under chapter 55*  
2           *of title 10, United States Code, or under chapter*  
3           *17 of title 38 of such Code.*

4           “(3) *LIMITATION ON ELIGIBILITY OF QUALIFIED*  
5           *MEDICARE BENEFICIARIES AND OTHER MEDICAID*  
6           *BENEFICIARIES TO ENROLL IN AN MSA PLAN.—An in-*  
7           *dividual who is a qualified medicare beneficiary (as*  
8           *defined in section 1905(p)(1)), a qualified disabled*  
9           *and working individual (described in section*  
10           *1905(s)), an individual described in section*  
11           *1902(a)(10)(E)(iii), or otherwise entitled to medicare*  
12           *cost-sharing under a State plan under title XIX is*  
13           *not eligible to enroll in an MSA plan.*

14           “(4) *COVERAGE UNDER MSA PLANS ON A DEM-*  
15           *ONSTRATION BASIS.—*

16           “(A) *IN GENERAL.—An individual is not el-*  
17           *igible to enroll in an MSA plan under this*  
18           *part—*

19                   “(i) *on or after January 1, 2003, un-*  
20                   *less the enrollment is the continuation of*  
21                   *such an enrollment in effect as of such date;*  
22                   *or*

23                   “(ii) *as of any date if the number of*  
24                   *such individuals so enrolled as of such date*  
25                   *has reached 100,000.*

1           *Under rules established by the Secretary, an in-*  
2           *dividual is not eligible to enroll (or continue en-*  
3           *rollment) in an MSA plan for a year unless the*  
4           *individual provides assurances satisfactory to the*  
5           *Secretary that the individual will reside in the*  
6           *United States for at least 183 days during the*  
7           *year.*

8           “(B) *EVALUATION.*—*The Secretary shall*  
9           *regularly evaluate the impact of permitting en-*  
10          *rollment in MSA plans under this part on selec-*  
11          *tion (including adverse selection), use of preven-*  
12          *tive care, access to care, and the financial status*  
13          *of the Trust Funds under this title.*

14          “(C) *REPORTS.*—*The Secretary shall submit*  
15          *to Congress periodic reports on the numbers of*  
16          *individuals enrolled in such plans and on the*  
17          *evaluation being conducted under subparagraph*  
18          *(B). The Secretary shall submit such a report, by*  
19          *not later than March 1, 2002, on whether the*  
20          *time limitation under subparagraph (A)(i)*  
21          *should be extended or removed and whether to*  
22          *change the numerical limitation under subpara-*  
23          *graph (A)(ii).*

24          “(c) *PROCESS FOR EXERCISING CHOICE.*—

1           “(1) *IN GENERAL.*—*The Secretary shall establish*  
2 *a process through which elections described in sub-*  
3 *section (a) are made and changed, including the form*  
4 *and manner in which such elections are made and*  
5 *changed. Such elections shall be made or changed as*  
6 *provided in subsection (e) and shall become effective*  
7 *as provided in subsection (f).*

8           “(2) *COORDINATION THROUGH MEDICARE*  
9 *CHOICE ORGANIZATIONS.*—

10           “(A) *ENROLLMENT.*—*Such process shall*  
11 *permit an individual who wishes to elect a Medi-*  
12 *care Choice plan offered by a Medicare Choice*  
13 *organization to make such election through the*  
14 *filing of an appropriate election form with the*  
15 *organization.*

16           “(B) *DISENROLLMENT.*—*Such process shall*  
17 *permit an individual, who has elected a Medi-*  
18 *care Choice plan offered by a Medicare Choice*  
19 *organization and who wishes to terminate such*  
20 *election, to terminate such election through the*  
21 *filing of an appropriate election form with the*  
22 *organization.*

23           “(3) *DEFAULT.*—

24           “(A) *INITIAL ELECTION.*—

1           “(i) *IN GENERAL.*—*Subject to clause*  
2           *(ii), an individual who fails to make an*  
3           *election during an initial election period*  
4           *under subsection (e)(1) is deemed to have*  
5           *chosen the traditional medicare fee-for-serv-*  
6           *ice program option.*

7           “(ii) *SEAMLESS CONTINUATION OF*  
8           *COVERAGE.*—*The Secretary may establish*  
9           *procedures under which an individual who*  
10           *is enrolled in a health plan (other than*  
11           *Medicare Choice plan) offered by a Medi-*  
12           *care Choice organization at the time of the*  
13           *initial election period and who fails to elect*  
14           *to receive coverage other than through the*  
15           *organization is deemed to have elected the*  
16           *Medicare Choice plan offered by the organi-*  
17           *zation (or, if the organization offers more*  
18           *than one such plan, such plan or plans as*  
19           *the Secretary identifies under such proce-*  
20           *dures).*

21           “(B) *CONTINUING PERIODS.*—*An individual*  
22           *who has made (or is deemed to have made) an*  
23           *election under this section is considered to have*  
24           *continued to make such election until such time*  
25           *as—*

1                   “(i) *the individual changes the election*  
2                   *under this section, or*

3                   “(ii) *the Medicare Choice plan with re-*  
4                   *spect to which such election is in effect is*  
5                   *discontinued.*

6           “(d) *PROVIDING INFORMATION TO PROMOTE IN-*  
7 *FORMED CHOICE.—*

8                   “(1) *IN GENERAL.—The Secretary shall provide*  
9                   *for activities under this subsection to broadly dissemi-*  
10                   *nate information to medicare beneficiaries (and pro-*  
11                   *spective medicare beneficiaries) on the coverage op-*  
12                   *tions provided under this section in order to promote*  
13                   *an active, informed selection among such options.*

14                   “(2) *PROVISION OF NOTICE.—*

15                   “(A) *OPEN SEASON NOTIFICATION.—At least*  
16                   *15 days before the beginning of each annual, co-*  
17                   *ordinated election period (as defined in sub-*  
18                   *section (e)(3)(B)), the Secretary shall mail to*  
19                   *each Medicare Choice eligible individual residing*  
20                   *in an area the following:*

21                   “(i) *GENERAL INFORMATION.—The*  
22                   *general information described in paragraph*  
23                   *(3).*

24                   “(ii) *LIST OF PLANS AND COMPARISON*  
25                   *OF PLAN OPTIONS.—A list identifying the*

1            *Medicare Choice plans that are (or will be)*  
2            *available to residents of the area and infor-*  
3            *mation described in paragraph (4) concern-*  
4            *ing such plans. Such information shall be*  
5            *presented in a comparative, chart-like form.*

6            *“(iii) ADDITIONAL INFORMATION.—*

7            *Any other information that the Secretary*  
8            *determines will assist the individual in*  
9            *making the election under this section.*

10          *The mailing of such information shall be coordi-*  
11          *nated with the mailing of any annual notice*  
12          *under section 1804.*

13          *“(B) NOTIFICATION TO NEWLY MEDICARE*  
14          *CHOICE ELIGIBLE INDIVIDUALS.—To the extent*  
15          *practicable, the Secretary shall, not later than 30*  
16          *days before the beginning of the initial Medicare*  
17          *Choice enrollment period for an individual de-*  
18          *scribed in subsection (e)(1)(A), mail to the indi-*  
19          *vidual the information described in subpara-*  
20          *graph (A).*

21          *“(C) FORM.—The information disseminated*  
22          *under this paragraph shall be written and*  
23          *formatted using language that is easily under-*  
24          *standable by medicare beneficiaries.*

1           “(D) *PERIODIC UPDATING.*—*The informa-*  
2           *tion described in subparagraph (A) shall be up-*  
3           *dated on at least an annual basis to reflect*  
4           *changes in the availability of Medicare Choice*  
5           *plans and the benefits and net monthly pre-*  
6           *miums for such plans.*

7           “(3) *GENERAL INFORMATION.*—*General informa-*  
8           *tion under this paragraph, with respect to coverage*  
9           *under this part during a year, shall include the fol-*  
10          *lowing:*

11           “(A) *BENEFITS UNDER TRADITIONAL MEDI-*  
12          *CARE FEE-FOR-SERVICE PROGRAM OPTION.*—*A*  
13          *general description of the benefits covered under*  
14          *the traditional medicare fee-for-service program*  
15          *under parts A and B, including—*

16                   “(i) *covered items and services,*

17                   “(ii) *beneficiary cost sharing, such as*  
18                   *deductibles, coinsurance, and copayment*  
19                   *amounts, and*

20                   “(iii) *any beneficiary liability for bal-*  
21                   *ance billing.*

22           “(B) *PART B PREMIUM.*—*The part B pre-*  
23          *mium rates that will be charged for part B cov-*  
24          *erage.*

1           “(C) *ELECTION PROCEDURES.*—*Information*  
2           *and instructions on how to exercise election op-*  
3           *tions under this section.*

4           “(D) *RIGHTS.*—*A general description of*  
5           *procedural rights (including grievance and ap-*  
6           *peals procedures) of beneficiaries under the tra-*  
7           *ditional medicare fee-for-service program and the*  
8           *Medicare Choice program and the right to be*  
9           *protected against discrimination based on health*  
10          *status-related factors under section 1852(b).*

11          “(E) *INFORMATION ON MEDIGAP AND MEDI-*  
12          *CARE SELECT.*—*A general description of the ben-*  
13          *efits, enrollment rights, and other requirements*  
14          *applicable to medicare supplemental policies*  
15          *under section 1882 and provisions relating to*  
16          *medicare select policies described in section*  
17          *1882(t).*

18          “(F) *POTENTIAL FOR CONTRACT TERMI-*  
19          *NATION.*—*The fact that a Medicare Choice orga-*  
20          *nization may terminate or refuse to renew its*  
21          *contract under this part and the effect the termi-*  
22          *nation or nonrenewal of its contract may have*  
23          *on individuals enrolled with the Medicare Choice*  
24          *plan under this part.*

1           “(4) *INFORMATION COMPARING PLAN OPTIONS.*—  
2           *Information under this paragraph, with respect to a*  
3           *Medicare Choice plan for a year, shall include the fol-*  
4           *lowing:*

5                   “(A) *BENEFITS.*—*The benefits covered*  
6                   *under the plan, including—*

7                           “(i) *covered items and services beyond*  
8                           *those provided under the traditional medi-*  
9                           *care fee-for-service program,*

10                           “(ii) *any beneficiary cost sharing,*

11                           “(iii) *any maximum limitations on*  
12                           *out-of-pocket expenses, and*

13                           “(iv) *in the case of an MSA plan, dif-*  
14                           *ferences in cost sharing and balance billing*  
15                           *under such a plan compared to under other*  
16                           *Medicare Choice plans.*

17                   “(B) *PREMIUMS.*—*The net monthly pre-*  
18                   *mium, if any, for the plan.*

19                   “(C) *SERVICE AREA.*—*The service area of*  
20                   *the plan.*

21                   “(D) *QUALITY AND PERFORMANCE.*—*To the*  
22                   *extent available, plan quality and performance*  
23                   *indicators for the benefits under the plan (and*  
24                   *how they compare to such indicators under the*  
25                   *traditional medicare fee-for-service program*

1           under parts A and B in the area involved), in-  
2           cluding—

3                   “(i) disenrollment rates for medicare  
4                   enrollees electing to receive benefits through  
5                   the plan for the previous 2 years (excluding  
6                   disenrollment due to death or moving out-  
7                   side the plan’s service area),

8                   “(ii) information on medicare enrollee  
9                   satisfaction,

10                  “(iii) information on health outcomes,

11                  “(iv) the extent to which a medicare  
12                  enrollee may select the health care provider  
13                  of their choice, including health care provid-  
14                  ers within the plan’s network and out-of-  
15                  network health care providers (if the plan  
16                  covers out-of-network items and services),  
17                  and

18                  “(v) an indication of medicare enrollee  
19                  exposure to balance billing and the restric-  
20                  tions on coverage of items and services pro-  
21                  vided to such enrollee by an out-of-network  
22                  health care provider.

23                  “(E) SUPPLEMENTAL BENEFITS OPTIONS.—

24                  Whether the organization offering the plan offers  
25                  optional supplemental benefits and the terms

1           *and conditions (including premiums) for such*  
2           *coverage.*

3           “(F) *PHYSICIAN COMPENSATION.*—*An over-*  
4           *all summary description as to the method of*  
5           *compensation of participating physicians.*

6           “(5) *MAINTAINING A TOLL-FREE NUMBER AND*  
7           *INTERNET SITE.*—*The Secretary shall maintain a*  
8           *toll-free number for inquiries regarding Medicare*  
9           *Choice options and the operation of this part in all*  
10          *areas in which Medicare Choice plans are offered and*  
11          *an Internet site through which individuals may elec-*  
12          *tronically obtain information on such options and*  
13          *Medicare Choice plans.*

14          “(6) *USE OF NON-FEDERAL ENTITIES.*—*The Sec-*  
15          *retary may enter into contracts with non-Federal en-*  
16          *tities to carry out activities under this subsection.*

17          “(7) *PROVISION OF INFORMATION.*—*A Medicare*  
18          *Choice organization shall provide the Secretary with*  
19          *such information on the organization and each Medi-*  
20          *care Choice plan it offers as may be required for the*  
21          *preparation of the information referred to in para-*  
22          *graph (2)(A).*

23          “(8) *COORDINATION WITH STATES.*—*The Sec-*  
24          *retary shall coordinate with States to the maximum*

1 *extent feasible in developing and distributing infor-*  
2 *mation provided to beneficiaries.*

3 “(e) *COVERAGE ELECTION PERIODS.*—

4       “(1) *INITIAL CHOICE UPON ELIGIBILITY TO MAKE*  
5 *ELECTION IF MEDICARE CHOICE PLANS AVAILABLE TO*  
6 *INDIVIDUAL.*—*If, at the time an individual first be-*  
7 *comes entitled to benefits under part A and enrolled*  
8 *under part B, there is one or more Medicare Choice*  
9 *plans offered in the area in which the individual re-*  
10 *sides, the individual shall make the election under*  
11 *this section during a period specified by the Secretary*  
12 *such that if the individual elects a Medicare Choice*  
13 *plan during the period, coverage under the plan be-*  
14 *comes effective as of the first date on which the indi-*  
15 *vidual may receive such coverage.*

16       “(2) *OPEN ENROLLMENT AND DISENROLLMENT*  
17 *OPPORTUNITIES.*—*Subject to paragraph (5), a Medi-*  
18 *care Choice eligible individual may change the elec-*  
19 *tion under subsection (a)(1) at any time, except that*  
20 *such individual may only enroll in a Medicare Choice*  
21 *plan which has an open enrollment period in effect at*  
22 *that time.*

23       “(3) *ANNUAL, COORDINATED ELECTION PE-*  
24 *RIOD.*—

1           “(A) *IN GENERAL.*—Subject to paragraph  
2           (5), a Medicare Choice eligible individual may  
3           change an election under subsection (a)(1) dur-  
4           ing an annual, coordinated election period.

5           “(B) *ANNUAL, COORDINATED ELECTION PE-*  
6           *RIOD.*—For purposes of this section, the term  
7           ‘annual, coordinated election period’ means, with  
8           respect to a calendar year (beginning with  
9           1998), the month of November before such year.

10          “(C) *MEDICARE CHOICE HEALTH INFORMA-*  
11          *TION FAIRS.*—In the month of November of each  
12          year (beginning with 1997), the Secretary shall  
13          provide for a nationally coordinated educational  
14          and publicity campaign to inform Medicare  
15          Choice eligible individuals about Medicare  
16          Choice plans and the election process provided  
17          under this section.

18          “(4) *SPECIAL ELECTION PERIODS.*—A Medicare  
19          Choice individual may make a new election under  
20          this section if—

21                 “(A) the organization’s or plan’s certifi-  
22                 cation under this part has been terminated or  
23                 the organization has terminated or otherwise dis-  
24                 continued providing the plan;

1           “(B) the individual is no longer eligible to  
2           elect the plan because of a change in the individ-  
3           ual’s place of residence or other change in cir-  
4           cumstances (specified by the Secretary, but not  
5           including termination of the individual’s enroll-  
6           ment on the basis described in clause (i) or (ii)  
7           subsection (g)(3)(B));

8           “(C) the individual demonstrates (in ac-  
9           cordance with guidelines established by the Sec-  
10          retary) that—

11           “(i) the organization offering the plan  
12          substantially violated a material provision  
13          of the organization’s contract under this  
14          part in relation to the individual (includ-  
15          ing the failure to provide an enrollee on a  
16          timely basis medically necessary care for  
17          which benefits are available under the plan  
18          or the failure to provide such covered care  
19          in accordance with applicable quality  
20          standards); or

21           “(ii) the organization (or an agent or  
22          other entity acting on the organization’s be-  
23          half) materially misrepresented the plan’s  
24          provisions in marketing the plan to the in-  
25          dividual; or

1           “(D) the individual meets such other excep-  
2           tional conditions as the Secretary may provide.

3           “(5) SPECIAL RULES FOR MSA PLANS.—Notwith-  
4           standing the preceding provisions of this subsection,  
5           an individual—

6           “(A) may elect an MSA plan only during—

7           “(i) an initial open enrollment period  
8           described in paragraph (1), or

9           “(ii) an annual, coordinated election  
10           period described in paragraph (3)(B), and

11           “(B) may not discontinue an election of an  
12           MSA plan except during the periods described in  
13           subparagraph (A) and under paragraph (4).

14           “(6) OPEN ENROLLMENT PERIODS.—A Medicare  
15           Choice organization—

16           “(A) shall accept elections or changes to  
17           elections described in paragraphs (1), (3), and  
18           (4) during the periods prescribed in such para-  
19           graphs, and

20           “(B) may accept other changes to elections  
21           at such other times as the organization provides.

22           “(f) EFFECTIVENESS OF ELECTIONS AND CHANGES OF  
23           ELECTIONS.—

24           “(1) DURING INITIAL COVERAGE ELECTION PE-  
25           RIOD.—An election of coverage made during the ini-

1 *tial coverage election period under subsection*  
2 *(e)(1)(A) shall take effect upon the date the individual*  
3 *becomes entitled to benefits under part A and enrolled*  
4 *under part B, except as the Secretary may provide*  
5 *(consistent with section 1838) in order to prevent ret-*  
6 *roactive coverage.*

7 “(2) *DURING CONTINUOUS OPEN ENROLLMENT*  
8 *PERIODS.—An election or change of coverage made*  
9 *under subsection (e)(2) shall take effect with the first*  
10 *day of the first calendar month following the date on*  
11 *which the election is made.*

12 “(3) *ANNUAL, COORDINATED ELECTION PE-*  
13 *RIOD.—An election or change of coverage made dur-*  
14 *ing an annual, coordinated election period (as defined*  
15 *in subsection (e)(3)(B)) in a year shall take effect as*  
16 *of the first day of the following year unless the indi-*  
17 *vidual elects to have it take effect on December 1 of*  
18 *the election year.*

19 “(4) *OTHER PERIODS.—An election or change of*  
20 *coverage made during any other period under sub-*  
21 *section (e)(4) shall take effect in such manner as the*  
22 *Secretary provides in a manner consistent (to the ex-*  
23 *tent practicable) with protecting continuity of health*  
24 *benefit coverage.*

25 “(g) *GUARANTEED ISSUE AND RENEWAL.—*

1           “(1) *IN GENERAL.*—*Except as provided in this*  
2           *subsection, a Medicare Choice organization shall pro-*  
3           *vide that at any time during which elections are ac-*  
4           *cepted under this section with respect to a Medicare*  
5           *Choice plan offered by the organization, the organiza-*  
6           *tion will accept without restrictions individuals who*  
7           *are eligible to make such election.*

8           “(2) *PRIORITY.*—*If the Secretary determines that*  
9           *a Medicare Choice organization, in relation to a Med-*  
10          *icare Choice plan it offers, has a capacity limit and*  
11          *the number of Medicare Choice eligible individuals*  
12          *who elect the plan under this section exceeds the ca-*  
13          *capacity limit, the organization may limit the election*  
14          *of individuals of the plan under this section but only*  
15          *if priority in election is provided—*

16                   “(A) *first to such individuals as have elect-*  
17                   *ed the plan at the time of the determination, and*

18                   “(B) *then to other such individuals in such*  
19                   *a manner that does not discriminate, on a basis*  
20                   *described in section 1852(b), among the individ-*  
21                   *uals (who seek to elect the plan).*

22           *The preceding sentence shall not apply if it would re-*  
23           *sult in the enrollment of enrollees substantially non-*  
24           *representative, as determined in accordance with reg-*

1 *ulations of the Secretary, of the medicare population*  
2 *in the service area of the plan.*

3 “(3) *LIMITATION ON TERMINATION OF ELEC-*  
4 *TION.—*

5 “(A) *IN GENERAL.—Subject to subpara-*  
6 *graph (B), a Medicare Choice organization may*  
7 *not for any reason terminate the election of any*  
8 *individual under this section for a Medicare*  
9 *Choice plan it offers.*

10 “(B) *BASIS FOR TERMINATION OF ELEC-*  
11 *TION.—A Medicare Choice organization may ter-*  
12 *minate an individual’s election under this sec-*  
13 *tion with respect to a Medicare Choice plan it of-*  
14 *fers if—*

15 “(i) *any net monthly premiums re-*  
16 *quired with respect to such plan are not*  
17 *paid on a timely basis (consistent with*  
18 *standards under section 1856 that provide*  
19 *for a grace period for late payment of net*  
20 *monthly premiums),*

21 “(ii) *the individual has engaged in*  
22 *disruptive behavior (as specified in such*  
23 *standards), or*

1           “(iii) *the plan is terminated with re-*  
2           *spect to all individuals under this part in*  
3           *the area in which the individual resides.*

4           “(C) *CONSEQUENCE OF TERMINATION.—*

5           “(i) *TERMINATIONS FOR CAUSE.—Any*  
6           *individual whose election is terminated*  
7           *under clause (i) or (ii) of subparagraph (B)*  
8           *is deemed to have elected the traditional*  
9           *medicare fee-for-service program option de-*  
10           *scribed in subsection (a)(1)(A).*

11           “(ii) *TERMINATION BASED ON PLAN*  
12           *TERMINATION OR SERVICE AREA REDUC-*  
13           *TION.—Any individual whose election is*  
14           *terminated under subparagraph (B)(iii)*  
15           *shall have a special election period under*  
16           *subsection (e)(4)(A) in which to change cov-*  
17           *erage to coverage under another Medicare*  
18           *Choice plan. Such an individual who fails*  
19           *to make an election during such period is*  
20           *deemed to have chosen to change coverage to*  
21           *the traditional medicare fee-for-service pro-*  
22           *gram option described in subsection*  
23           *(a)(1)(A).*

24           “(D) *ORGANIZATION OBLIGATION WITH RE-*  
25           *SPECT TO ELECTION FORMS.—Pursuant to a*

1           *contract under section 1857, each Medicare*  
2           *Choice organization receiving an election form*  
3           *under subsection (c)(3) shall transmit to the Sec-*  
4           *retary (at such time and in such manner as the*  
5           *Secretary may specify) a copy of such form or*  
6           *such other information respecting the election as*  
7           *the Secretary may specify.*

8           “(h) *APPROVAL OF MARKETING MATERIAL AND APPLI-*  
9           *CATION FORMS.—*

10           “(1) *SUBMISSION.—No marketing material or*  
11           *application form may be distributed by a Medicare*  
12           *Choice organization to (or for the use of) Medicare*  
13           *Choice eligible individuals unless—*

14                   “(A) *at least 45 days before the date of dis-*  
15                   *tribution the organization has submitted the ma-*  
16                   *terial or form to the Secretary for review, and*

17                   “(B) *the Secretary has not disapproved the*  
18                   *distribution of such material or form.*

19           “(2) *REVIEW.—The standards established under*  
20           *section 1856 shall include guidelines for the review of*  
21           *any material or form submitted and under such*  
22           *guidelines the Secretary shall disapprove (or later re-*  
23           *quire the correction of) such material or form if the*  
24           *material or form is materially inaccurate or mislead-*  
25           *ing or otherwise makes a material misrepresentation.*

1           “(3) *DEEMED APPROVAL (1-STOP SHOPPING).*—  
2           *In the case of material or form that is submitted*  
3           *under paragraph (1)(A) to the Secretary or a re-*  
4           *gional office of the Department of Health and Human*  
5           *Services and the Secretary or the office has not dis-*  
6           *approved the distribution of marketing material or*  
7           *form under paragraph (1)(B) with respect to a Medi-*  
8           *care Choice plan in an area, the Secretary is deemed*  
9           *not to have disapproved such distribution in all other*  
10           *areas covered by the plan and organization except to*  
11           *the extent that such material or form is specific only*  
12           *to an area involved.*

13           “(4) *PROHIBITION OF CERTAIN MARKETING*  
14           *PRACTICES.*—*Each Medicare Choice organization*  
15           *shall conform to fair marketing standards, in relation*  
16           *to Medicare Choice plans offered under this part, in-*  
17           *cluded in the standards established under section*  
18           *1856.*

19           “(i) *EFFECT OF ELECTION OF MEDICARE CHOICE*  
20           *PLAN OPTION.*—*Subject to sections 1852(a)(5) and*  
21           *1857(f)(2)—*

22           “(1) *payments under a contract with a Medicare*  
23           *Choice organization under section 1853(a) with re-*  
24           *spect to an individual electing a Medicare Choice*  
25           *plan offered by the organization shall be instead of*

1 *the amounts which (in the absence of the contract)*  
2 *would otherwise be payable under parts A and B for*  
3 *items and services furnished to the individual, and*

4 *“(2) subject to subsections (e) and (g) of section*  
5 *1853, only the Medicare Choice organization shall be*  
6 *entitled to receive payments from the Secretary under*  
7 *this title for services furnished to the individual.*

8 *“BENEFITS AND BENEFICIARY PROTECTIONS*

9 *“SEC. 1852. (a) BASIC BENEFITS.—*

10 *“(1) IN GENERAL.—Except as provided in sec-*  
11 *tion 1859(b)(3) for MSA plans, each Medicare Choice*  
12 *plan shall provide to members enrolled under this*  
13 *part, through providers and other persons that meet*  
14 *the applicable requirements of this title and part A*  
15 *of title XI—*

16 *“(A) those items and services for which ben-*  
17 *efits are available under parts A and B to indi-*  
18 *viduals residing in the area served by the plan,*  
19 *and*

20 *“(B) additional benefits required under sec-*  
21 *tion 1854(f)(1)(A).*

22 *“(2) SUPPLEMENTAL BENEFITS.—*

23 *“(A) BENEFITS INCLUDED SUBJECT TO SEC-*  
24 *RETARY’S APPROVAL.—Each Medicare Choice or-*  
25 *ganization may provide to individuals enrolled*  
26 *under this part (without affording those individ-*

1           uals an option to decline the coverage) supple-  
2           mental health care benefits that the Secretary  
3           may approve. The Secretary shall approve any  
4           such supplemental benefits unless the Secretary  
5           determines that including such supplemental  
6           benefits would substantially discourage enroll-  
7           ment by Medicare Choice eligible individuals  
8           with the organization.

9           “(B) *AT ENROLLEES’ OPTION.*—A Medicare  
10          Choice organization may provide to individuals  
11          enrolled under this part (other than under an  
12          MSA plan) supplemental health care benefits  
13          that the individuals may elect, at their option,  
14          to have covered.

15          “(3) *ORGANIZATION AS SECONDARY PAYER.*—  
16          Notwithstanding any other provision of law, a Medi-  
17          care Choice organization may (in the case of the pro-  
18          vision of items and services to an individual under  
19          a Medicare Choice plan under circumstances in which  
20          payment under this title is made secondary pursuant  
21          to section 1862(b)(2)) charge or authorize the provider  
22          of such services to charge, in accordance with the  
23          charges allowed under a law, plan, or policy described  
24          in such section—

1           “(A) *the insurance carrier, employer, or*  
2           *other entity which under such law, plan, or pol-*  
3           *icy is to pay for the provision of such services,*  
4           *or*

5           “(B) *such individual to the extent that the*  
6           *individual has been paid under such law, plan,*  
7           *or policy for such services.*

8           “(4) *NATIONAL COVERAGE DETERMINATIONS.—If*  
9           *there is a national coverage determination made in*  
10          *the period beginning on the date of an announcement*  
11          *under section 1853(b) and ending on the date of the*  
12          *next announcement under such section and the Sec-*  
13          *retary projects that the determination will result in*  
14          *a significant change in the costs to a Medicare Choice*  
15          *organization of providing the benefits that are the*  
16          *subject of such national coverage determination and*  
17          *that such change in costs was not incorporated in the*  
18          *determination of the annual Medicare Choice capita-*  
19          *tion rate under section 1853 included in the an-*  
20          *nouncement made at the beginning of such period,*  
21          *then, unless otherwise required by law—*

22                  “(A) *such determination shall not apply to*  
23                  *contracts under this part until the first contract*  
24                  *year that begins after the end of such period, and*

1           “(B) if such coverage determination pro-  
2           vides for coverage of additional benefits or cov-  
3           erage under additional circumstances, section  
4           1851(i) shall not apply to payment for such ad-  
5           ditional benefits or benefits provided under such  
6           additional circumstances until the first contract  
7           year that begins after the end of such period.

8           “(5) SATISFACTION OF REQUIREMENT.—

9           “(A) IN GENERAL.—A MedicarePlus plan  
10          offered by a MedicarePlus organization satisfies  
11          paragraph (1)(A), with respect to benefits for  
12          items and services furnished other than through  
13          a provider that has a contract with the organiza-  
14          tion offering the plan, if the plan provides (in  
15          addition to any cost sharing provided for under  
16          the plan) for at least the total dollar amount of  
17          payment for such items and services as would  
18          otherwise be authorized under parts A and B  
19          (including any balance billing permitted under  
20          such parts).

21          “(B) EXCEPTION FOR MSA PLANS AND UN-  
22          RESTRICTED FEE-FOR-SERVICE PLANS.—Sub-  
23          paragraph (A) shall not apply to an MSA plan  
24          or an unrestricted fee-for-service plan.

25          “(b) ANTIDISCRIMINATION.—

1           “(1) *BENEFICIARIES.*—

2                   “(A) *IN GENERAL.*—A Medicare Choice or-  
3                   ganization may not deny, limit, or condition the  
4                   coverage or provision of benefits under this part,  
5                   for individuals permitted to be enrolled with the  
6                   organization under this part, based on any  
7                   health status-related factor described in section  
8                   2702(a)(1) of the Public Health Service Act.

9                   “(B) *CONSTRUCTION.*—Subparagraph (A)  
10                   shall not be construed as requiring a Medicare  
11                   Choice organization to enroll individuals who  
12                   are determined to have end-stage renal disease,  
13                   except as provided under section 1851(a)(3)(B).

14                   “(2) *PROVIDERS.*—A Medicare Choice organiza-  
15                   tion shall not discriminate with respect to participa-  
16                   tion, reimbursement, or indemnification as to any  
17                   provider who is acting within the scope of the provid-  
18                   er’s license or certification under applicable State  
19                   law, solely on the basis of such license or certification.  
20                   This paragraph shall not be construed to prohibit a  
21                   plan from including providers only to the extent nec-  
22                   essary to meet the needs of the plan’s enrollees or from  
23                   establishing any measure designed to maintain qual-  
24                   ity and control costs consistent with the responsibil-  
25                   ities of the plan.

1       “(c) *DISCLOSURE REQUIREMENTS.*—

2               “(1) *DETAILED DESCRIPTION OF PLAN PROVI-*  
3       *SIONS.*—*A Medicare Choice organization shall dis-*  
4       *close, in clear, accurate, and standardized form to*  
5       *each enrollee with a Medicare Choice plan offered by*  
6       *the organization under this part at the time of enroll-*  
7       *ment and at least annually thereafter, the following*  
8       *information regarding such plan:*

9               “(A) *SERVICE AREA.*—*The plan’s service*  
10       *area.*

11              “(B) *BENEFITS.*—*Benefits offered under the*  
12       *plan, including information described in section*  
13       *1851(d)(3)(A) and exclusions from coverage and,*  
14       *if it is an MSA plan, a comparison of benefits*  
15       *under such a plan with benefits under other*  
16       *Medicare Choice plans.*

17              “(C) *ACCESS.*—*The number, mix, and dis-*  
18       *tribution of plan providers.*

19              “(D) *OUT-OF-AREA COVERAGE.*—*Out-of-*  
20       *area coverage provided by the plan.*

21              “(E) *EMERGENCY COVERAGE.*—*Coverage of*  
22       *emergency services and urgently needed care, in-*  
23       *cluding—*

24                      “(i) *the appropriate use of emergency*  
25       *services, including use of the 911 telephone*

1           *system or its local equivalent in emergency*  
2           *situations and an explanation of what con-*  
3           *stitutes an emergency situation;*

4           “(ii) *the process and procedures of the*  
5           *plan for obtaining emergency services; and*

6           “(iii) *the locations of (I) emergency de-*  
7           *partments, and (II) other settings, in which*  
8           *plan physicians and hospitals provide emer-*  
9           *gency services and post-stabilization care.*

10          “(F) *SUPPLEMENTAL BENEFITS.—Supple-*  
11          *mental benefits available from the organization*  
12          *offering the plan, including—*

13               “(i) *whether the supplemental benefits*  
14               *are optional,*

15               “(ii) *the supplemental benefits covered,*  
16               *and*

17               “(iii) *the premium price for the sup-*  
18               *plemental benefits.*

19          “(G) *PRIOR AUTHORIZATION RULES.—*  
20          *Rules regarding prior authorization or other re-*  
21          *view requirements that could result in nonpay-*  
22          *ment.*

23          “(H) *PLAN GRIEVANCE AND APPEALS PRO-*  
24          *CEDURES.—All plan appeal or grievance rights*  
25          *and procedures.*

1           “(I) *QUALITY ASSURANCE PROGRAM.*—A de-  
2           scription of the organization’s quality assurance  
3           program under subsection (e).

4           “(J) *OUT-OF-NETWORK COVERAGE.*—The  
5           out-of-network coverage (if any) provided by the  
6           plan.

7           “(2) *DISCLOSURE UPON REQUEST.*—Upon re-  
8           quest of a Medicare Choice eligible individual, a Med-  
9           icare Choice organization must provide the following  
10          information to such individual:

11           “(A) The information described in para-  
12          graphs (3) and (4) of section 1851(d).

13           “(B) Information on utilization review pro-  
14          cedures.

15          “(d) *ACCESS TO SERVICES.*—

16           “(1) *IN GENERAL.*—A Medicare Choice organiza-  
17          tion offering a Medicare Choice plan, other than an  
18          unrestricted fee-for-service plan, may select the pro-  
19          viders from whom the benefits under the plan are pro-  
20          vided so long as—

21           “(A) the organization makes such benefits  
22          available and accessible to each individual elect-  
23          ing the plan within the plan service area with  
24          reasonable promptness and in a manner which  
25          assures continuity in the provision of benefits;

1           “(B) when medically necessary the organi-  
2           zation makes such benefits available and acces-  
3           sible 24 hours a day and 7 days a week;

4           “(C) the plan provides for reimbursement  
5           with respect to services which are covered under  
6           subparagraphs (A) and (B) and which are pro-  
7           vided to such an individual other than through  
8           the organization, if—

9                   “(i) the services were medically nec-  
10                  essary and immediately required because of  
11                  an unforeseen illness, injury, or condition,  
12                  and it was not reasonable given the cir-  
13                  cumstances to obtain the services through  
14                  the organization, or

15                  “(ii) the services were renal dialysis  
16                  services and were provided other than  
17                  through the organization because the indi-  
18                  vidual was temporarily out of the plan’s  
19                  service area;

20           “(D) the organization provides access to ap-  
21           propriate providers, including credentialed spe-  
22           cialists, for medically necessary treatment and  
23           services;

24           “(E) coverage is provided for emergency  
25           services (as defined in paragraph (3)) without

1           *regard to prior authorization or the emergency*  
2           *care provider’s contractual relationship with the*  
3           *organization; and*

4           *“(F) except as provided by the Secretary on*  
5           *a case-by-case basis, the organization provides*  
6           *primary care services within 30 minutes or 30*  
7           *miles from an enrollee’s place of residence if the*  
8           *enrollee resides in a rural area.*

9           *“(2) GUIDELINES RESPECTING COORDINATION OF*  
10          *POST-STABILIZATION CARE.—*

11           *“(A) IN GENERAL.—A Medicare Choice plan*  
12           *shall comply with such guidelines as the Sec-*  
13           *retary shall prescribe relating to promoting effi-*  
14           *cient and timely coordination of appropriate*  
15           *maintenance and post-stabilization care of an*  
16           *enrollee after the enrollee has been determined to*  
17           *be stable under section 1867.*

18           *“(B) CONTENT OF GUIDELINES.—The*  
19           *guidelines prescribed under subparagraph (A)*  
20           *shall provide that—*

21           *“(i) a provider of emergency services*  
22           *shall make a documented good faith effort to*  
23           *contact the plan in a timely fashion from*  
24           *the point at which the individual is sta-*

1           *bilized to request approval for medically*  
2           *necessary post-stabilization care,*

3           “(ii) *the plan shall respond in a timely*  
4           *fashion to the initial contact with the plan*  
5           *with a decision as to whether the services*  
6           *for which approval is requested will be au-*  
7           *thorized, and*

8           “(iii) *if a denial of a request is com-*  
9           *municated, the plan shall, upon request*  
10          *from the treating physician, arrange for a*  
11          *physician who is authorized by the plan to*  
12          *review the denial to communicate directly*  
13          *with the treating physician in a timely*  
14          *fashion.*

15          “(3) *DEFINITION OF EMERGENCY SERVICES.—In*  
16          *this subsection—*

17                 “(A) *IN GENERAL.—The term ‘emergency*  
18                 *services’ means, with respect to an individual*  
19                 *enrolled with an organization, covered inpatient*  
20                 *and outpatient services that—*

21                         “(i) *are furnished by a provider that is*  
22                         *qualified to furnish such services under this*  
23                         *title, and*

1           “(ii) are needed to evaluate or stabilize  
2           an emergency medical condition (as defined  
3           in subparagraph (B)).

4           “(B) *EMERGENCY MEDICAL CONDITION*  
5           *BASED ON PRUDENT LAYPERSON.*—*The term*  
6           *‘emergency medical condition’ means a medical*  
7           *condition manifesting itself by acute symptoms*  
8           *of sufficient severity (including severe pain) such*  
9           *that a prudent layperson, who possesses an aver-*  
10           *age knowledge of health and medicine, could rea-*  
11           *sonably expect the absence of immediate medical*  
12           *attention to result in—*

13                   “(i) *placing the health of the individ-*  
14                   *ual (or, with respect to a pregnant woman,*  
15                   *the health of the woman or her unborn*  
16                   *child) in serious jeopardy,*

17                   “(ii) *serious impairment to bodily*  
18                   *functions, or*

19                   “(iii) *serious dysfunction of any bodily*  
20                   *organ or part.*

21           “(e) *QUALITY ASSURANCE PROGRAM.*—

22                   “(1) *IN GENERAL.*—*Each Medicare Choice orga-*  
23                   *nization must have arrangements, consistent with*  
24                   *any regulation, for an ongoing quality assurance pro-*  
25                   *gram for health care services it provides to individ-*

1 *uals enrolled with Medicare Choice plans of the orga-*  
2 *nization.*

3 “(2) *ELEMENTS OF PROGRAM.—The quality as-*  
4 *urance program shall—*

5 “(A) *stress health outcomes and provide for*  
6 *the collection, analysis, and reporting of data (in*  
7 *accordance with a quality measurement system*  
8 *that the Secretary recognizes) that will permit*  
9 *measurement of outcomes and other indices of the*  
10 *quality of Medicare Choice plans and organiza-*  
11 *tions;*

12 “(B) *provide for the establishment of writ-*  
13 *ten protocols for utilization review, based on cur-*  
14 *rent standards of medical practice;*

15 “(C) *provide review by physicians and*  
16 *other health care professionals of the process fol-*  
17 *lowed in the provision of such health care serv-*  
18 *ices;*

19 “(D) *monitor and evaluate high volume and*  
20 *high risk services and the care of acute and*  
21 *chronic conditions;*

22 “(E) *evaluate the continuity and coordina-*  
23 *tion of care that enrollees receive;*

24 “(F) *have mechanisms to detect both under-*  
25 *utilization and overutilization of services;*

1           “(G) after identifying areas for improve-  
2           ment, establish or alter practice parameters;

3           “(H) take action to improve quality and as-  
4           sesses the effectiveness of such action through sys-  
5           tematic followup;

6           “(I) make available information on quality  
7           and outcomes measures to facilitate beneficiary  
8           comparison and choice of health coverage options  
9           (in such form and on such quality and outcomes  
10          measures as the Secretary determines to be ap-  
11          propriate);

12          “(J) be evaluated on an ongoing basis as to  
13          its effectiveness;

14          “(K) include measures of consumer satisfac-  
15          tion; and

16          “(L) provide the Secretary with such access  
17          to information collected as may be appropriate  
18          to monitor and ensure the quality of care pro-  
19          vided under this part.

20          “(3) *EXTERNAL REVIEW.*—Each Medicare Choice  
21          organization shall, for each Medicare Choice plan it  
22          operates, have an agreement with an independent  
23          quality review and improvement organization ap-  
24          proved by the Secretary to perform functions of the  
25          type described in sections 1154(a)(4)(B) and

1       1154(a)(14) with respect to services furnished by Med-  
2       icare Choice plans for which payment is made under  
3       this title.

4               “(4) *EXCEPTION FOR MEDICARE CHOICE UNRE-*  
5       *STRICTED FEE-FOR-SERVICE PLANS.*—Paragraphs (1)  
6       through (3) of this subsection and subsection (h)(2)  
7       (relating to maintaining medical records) shall not  
8       apply in the case of a Medicare Choice organization  
9       in relation to a Medicare Choice unrestricted fee-for-  
10      service plan.

11              “(5) *TREATMENT OF ACCREDITATION.*—The Sec-  
12      retary shall provide that a Medicare Choice organiza-  
13      tion is deemed to meet requirements of paragraphs (1)  
14      and (2) of this subsection and subsection (h) (relating  
15      to confidentiality and accuracy of enrollee records) if  
16      the organization is accredited (and periodically re-  
17      accredited) by a private organization under a process  
18      that the Secretary has determined assures that the or-  
19      ganization, as a condition of accreditation, applies  
20      and enforces standards with respect to the require-  
21      ments involved that are no less stringent than the  
22      standards established under section 1856 to carry out  
23      the respective requirements.

24              “(6) *ANNUAL REPORT ON NON-HEALTH EXPENDI-*  
25      *TURES.*—Each Medicare Choice organization shall, at

1 *the request of the enrollee, annually provide to enroll-*  
2 *ees a statement disclosing the proportion of the pre-*  
3 *miums and other revenues received by the organiza-*  
4 *tion that are expended for non-health care items and*  
5 *services.*

6 “(f) *COVERAGE DETERMINATIONS.*—

7 “(1) *DECISIONS ON NONEMERGENCY CARE.*—A  
8 *Medicare Choice organization shall make determina-*  
9 *tions regarding authorization requests for non-*  
10 *emergency care on a timely basis, depending on the*  
11 *urgency of the situation.*

12 “(2) *RECONSIDERATIONS.*—

13 “(A) *IN GENERAL.*—Subject to subsection  
14 *(g)(4), a reconsideration of a determination of*  
15 *an organization denying coverage shall be made*  
16 *within 30 days of the date of receipt of medical*  
17 *information, but not later than 60 days after the*  
18 *date of the determination.*

19 “(B) *PHYSICIAN DECISION ON CERTAIN RE-*  
20 *CONSIDERATIONS.*—A reconsideration relating to  
21 *a determination to deny coverage based on a lack*  
22 *of medical necessity shall be made only by a*  
23 *physician other than a physician involved in the*  
24 *initial determination.*

25 “(g) *GRIEVANCES AND APPEALS.*—

1           “(1) *GRIEVANCE MECHANISM.*—*Each Medicare*  
2           *Choice organization must provide meaningful proce-*  
3           *dures for hearing and resolving grievances between the*  
4           *organization (including any entity or individual*  
5           *through which the organization provides health care*  
6           *services) and enrollees with Medicare Choice plans of*  
7           *the organization under this part.*

8           “(2) *APPEALS.*—*An enrollee with a Medicare*  
9           *Choice plan of a Medicare Choice organization under*  
10           *this part who is dissatisfied by reason of the enrollee’s*  
11           *failure to receive any health service to which the en-*  
12           *rollee believes the enrollee is entitled and at no greater*  
13           *charge than the enrollee believes the enrollee is re-*  
14           *quired to pay is entitled, if the amount in controversy*  
15           *is \$100 or more, to a hearing before the Secretary to*  
16           *the same extent as is provided in section 205(b), and*  
17           *in any such hearing the Secretary shall make the or-*  
18           *ganization a party. If the amount in controversy is*  
19           *\$1,000 or more, the individual or organization shall,*  
20           *upon notifying the other party, be entitled to judicial*  
21           *review of the Secretary’s final decision as provided in*  
22           *section 205(g), and both the individual and the orga-*  
23           *nization shall be entitled to be parties to that judicial*  
24           *review. In applying subsections (b) and (g) of section*  
25           *205 as provided in this paragraph, and in applying*

1 *section 205(l) thereto, any reference therein to the*  
2 *Commissioner of Social Security or the Social Secu-*  
3 *urity Administration shall be considered a reference to*  
4 *the Secretary or the Department of Health and*  
5 *Human Services, respectively.*

6 “(3) *INDEPENDENT REVIEW OF CERTAIN COV-*  
7 *ERAGE DENIALS.—The Secretary shall contract with*  
8 *an independent, outside entity to review and resolve*  
9 *reconsiderations that affirm denial of coverage.*

10 “(4) *EXPEDITED DETERMINATIONS AND RECON-*  
11 *SIDERATIONS.—*

12 “(A) *RECEIPT OF REQUESTS.—An enrollee*  
13 *in a Medicare Choice plan may request, either in*  
14 *writing or orally, an expedited determination or*  
15 *reconsideration by the Medicare Choice organiza-*  
16 *tion regarding a matter described in paragraph*  
17 *(2). The organization shall also permit the ac-*  
18 *ceptance of such requests by physicians.*

19 “(B) *ORGANIZATION PROCEDURES.—*

20 “(i) *IN GENERAL.—The Medicare*  
21 *Choice organization shall maintain proce-*  
22 *dures for expediting organization deter-*  
23 *minations and reconsiderations when, upon*  
24 *request of an enrollee, the organization de-*  
25 *termines that the application of normal*

1           *time frames for making a determination (or*  
2           *a reconsideration involving a determina-*  
3           *tion) could seriously jeopardize the life or*  
4           *health of the enrollee or the enrollee’s ability*  
5           *to regain maximum function.*

6           “(ii) *TIMELY RESPONSE.—In an ur-*  
7           *gent case described in clause (i), the organi-*  
8           *zation shall notify the enrollee (and the*  
9           *physician involved, as appropriate) of the*  
10           *determination (or determination on the re-*  
11           *consideration) as expeditiously as the en-*  
12           *rollee’s health condition requires, but not*  
13           *later than 72 hours (or 24 hours in the case*  
14           *of a reconsideration) of the time of receipt*  
15           *of the request for the determination or re-*  
16           *consideration (or receipt of the information*  
17           *necessary to make the determination or re-*  
18           *consideration), or such longer period as the*  
19           *Secretary may permit in specified cases.*

20           “(h) *CONFIDENTIALITY AND ACCURACY OF ENROLLEE*  
21           *RECORDS.—Each Medicare Choice organization shall estab-*  
22           *lish procedures—*

23                   “(1) *to safeguard the privacy of individually*  
24           *identifiable enrollee information,*

1           “(2) to maintain accurate and timely medical  
2 records and other health information for enrollees,  
3 and

4           “(3) to assure timely access of enrollees to their  
5 medical information.

6           “(i) *INFORMATION ON ADVANCE DIRECTIVES.*—Each  
7 Medicare Choice organization shall meet the requirement of  
8 section 1866(f) (relating to maintaining written policies  
9 and procedures respecting advance directives).

10          “(j) *RULES REGARDING PHYSICIAN PARTICIPATION.*—

11           “(1) *PROCEDURES.*—Each Medicare Choice orga-  
12 nization shall establish reasonable procedures relating  
13 to the participation (under an agreement between a  
14 physician and the organization) of physicians under  
15 Medicare Choice plans offered by the organization  
16 under this part. Such procedures shall include—

17           “(A) providing notice of the rules regarding  
18 participation,

19           “(B) providing written notice of participa-  
20 tion decisions that are adverse to physicians,  
21 and

22           “(C) providing a process within the organi-  
23 zation for appealing such adverse decisions, in-  
24 cluding the presentation of information and  
25 views of the physician regarding such decision.

1           “(2) *CONSULTATION IN MEDICAL POLICIES.—A*  
2           *Medicare Choice organization shall consult with phy-*  
3           *sicians who have entered into participation agree-*  
4           *ments with the organization regarding the organiza-*  
5           *tion’s medical policy, quality, and medical manage-*  
6           *ment procedures.*

7           “(3) *LIMITATIONS ON PHYSICIAN INCENTIVE*  
8           *PLANS.—*

9           “(A) *IN GENERAL.—No Medicare Choice or-*  
10           *ganization may operate any physician incentive*  
11           *plan (as defined in subparagraph (B)) unless the*  
12           *following requirements are met:*

13                   “(i) *No specific payment is made di-*  
14                   *rectly or indirectly under the plan to a phy-*  
15                   *sician or physician group as an inducement*  
16                   *to reduce or limit medically necessary serv-*  
17                   *ices provided with respect to a specific indi-*  
18                   *vidual enrolled with the organization.*

19                   “(ii) *If the plan places a physician or*  
20                   *physician group at substantial financial*  
21                   *risk (as determined by the Secretary) for*  
22                   *services not provided by the physician or*  
23                   *physician group, the organization—*

24                           “(I) *provides stop-loss protection*  
25                           *for the physician or group that is ade-*

1            *quate and appropriate, based on stand-*  
2            *ards developed by the Secretary that*  
3            *take into account the number of physi-*  
4            *cians placed at such substantial finan-*  
5            *cial risk in the group or under the*  
6            *plan and the number of individuals*  
7            *enrolled with the organization who re-*  
8            *ceive services from the physician or*  
9            *group, and*

10            *“(II) conducts periodic surveys of*  
11            *both individuals enrolled and individ-*  
12            *uals previously enrolled with the orga-*  
13            *nization to determine the degree of ac-*  
14            *cess of such individuals to services pro-*  
15            *vided by the organization and satisfac-*  
16            *tion with the quality of such services.*

17            *“(iii) The organization provides the*  
18            *Secretary with descriptive information re-*  
19            *garding the plan, sufficient to permit the*  
20            *Secretary to determine whether the plan is*  
21            *in compliance with the requirements of this*  
22            *subparagraph.*

23            *“(B) PHYSICIAN INCENTIVE PLAN DE-*  
24            *FINED.—In this paragraph, the term ‘physician*  
25            *incentive plan’ means any compensation ar-*

1           *rangement between a Medicare Choice organiza-*  
2           *tion and a physician or physician group that*  
3           *may directly or indirectly have the effect of re-*  
4           *ducing or limiting services provided with respect*  
5           *to individuals enrolled with the organization*  
6           *under this part.*

7           “(4) *LIMITATION ON PROVIDER INDEMNIFICA-*  
8           *TION.—A Medicare Choice organization may not pro-*  
9           *vide (directly or indirectly) for a provider (or group*  
10           *of providers) to indemnify the organization against*  
11           *any liability resulting from a civil action brought for*  
12           *any damage caused to an enrollee with a Medicare*  
13           *Choice plan of the organization under this part by the*  
14           *organization’s denial of medically necessary care.*

15           “(k) *TREATMENT OF SERVICES FURNISHED BY CER-*  
16           *TAIN PROVIDERS.—*

17           “(1) *IN GENERAL.—A physician or other entity*  
18           *(other than a provider of services) that does not have*  
19           *a contract establishing payment amounts for services*  
20           *furnished to an individual enrolled under this part*  
21           *with a MedicarePlus organization shall accept as*  
22           *payment in full for covered services under this title*  
23           *that are furnished to such an individual the amounts*  
24           *that the physician or other entity could collect if the*  
25           *individual were not so enrolled. Any penalty or other*

1 *provision of law that applies to such a payment with*  
2 *respect to an individual entitled to benefits under this*  
3 *title (but not enrolled with a MedicarePlus organiza-*  
4 *tion under this part) also applies with respect to an*  
5 *individual so enrolled.*

6 “(2) *EXCEPTION FOR MSA PLANS AND UNRE-*  
7 *STRICTED FEE-FOR-SERVICE PLANS.—Paragraph (1)*  
8 *shall not apply to an MSA plan or an unrestricted*  
9 *fee-for-service plan.*

10 “*PAYMENTS TO MEDICARE CHOICE ORGANIZATIONS*

11 “*SEC. 1853. (a) PAYMENTS TO ORGANIZATIONS.—*

12 “(1) *MONTHLY PAYMENTS.—*

13 “(A) *IN GENERAL.—Under a contract under*  
14 *section 1857 and subject to subsections (e) and*  
15 *(f), the Secretary shall make monthly payments*  
16 *under this section in advance to each Medicare*  
17 *Choice organization, with respect to coverage of*  
18 *an individual under this part in a Medicare*  
19 *Choice payment area for a month, in an amount*  
20 *equal to  $\frac{1}{12}$  of the annual Medicare Choice capi-*  
21 *tation rate (as calculated under subsection (c))*  
22 *with respect to that individual for that area, ad-*  
23 *justed for such risk factors as age, disability sta-*  
24 *tus, gender, institutional status, and such other*  
25 *factors as the Secretary determines to be appro-*  
26 *priate, so as to ensure actuarial equivalence. The*

1           *Secretary may add to, modify, or substitute for*  
2           *such factors, if such changes will improve the de-*  
3           *termination of actuarial equivalence.*

4           “(B) *SPECIAL RULE FOR END-STAGE RENAL*  
5           *DISEASE.—The Secretary shall establish separate*  
6           *rates of payment to a Medicare Choice organiza-*  
7           *tion with respect to classes of individuals deter-*  
8           *mined to have end-stage renal disease and en-*  
9           *rolled in a Medicare Choice plan of the organiza-*  
10          *tion. Such rates of payment shall be actuarially*  
11          *equivalent to rates paid to other enrollees in the*  
12          *Medicare Choice payment area (or such other*  
13          *area as specified by the Secretary). In accord-*  
14          *ance with regulations, the Secretary shall pro-*  
15          *vide for the application of the seventh sentence of*  
16          *section 1881(b)(7) to payments under this sec-*  
17          *tion covering the provision of renal dialysis*  
18          *treatment in the same manner as such sentence*  
19          *applies to composite rate payments described in*  
20          *such sentence.*

21          “(2) *ADJUSTMENT TO REFLECT NUMBER OF EN-*  
22          *ROLLEES.—*

23                 “(A) *IN GENERAL.—The amount of pay-*  
24                 *ment under this subsection may be retroactively*  
25                 *adjusted to take into account any difference be-*

1           *tween the actual number of individuals enrolled*  
2           *with an organization under this part and the*  
3           *number of such individuals estimated to be so*  
4           *enrolled in determining the amount of the ad-*  
5           *vance payment.*

6           “(B) *SPECIAL RULE FOR CERTAIN ENROLL-*  
7           *EES.—*

8                   “(i) *IN GENERAL.—Subject to clause*  
9                   *(ii), the Secretary may make retroactive ad-*  
10                   *justments under subparagraph (A) to take*  
11                   *into account individuals enrolled during the*  
12                   *period beginning on the date on which the*  
13                   *individual enrolls with a Medicare Choice*  
14                   *organization under a plan operated, spon-*  
15                   *sored, or contributed to by the individual’s*  
16                   *employer or former employer (or the em-*  
17                   *ployer or former employer of the individ-*  
18                   *ual’s spouse) and ending on the date on*  
19                   *which the individual is enrolled in the orga-*  
20                   *nization under this part, except that for*  
21                   *purposes of making such retroactive adjust-*  
22                   *ments under this subparagraph, such period*  
23                   *may not exceed 90 days.*

24                   “(ii) *EXCEPTION.—No adjustment may*  
25                   *be made under clause (i) with respect to*

1           *any individual who does not certify that the*  
2           *organization provided the individual with*  
3           *the disclosure statement described in section*  
4           *1852(c) at the time the individual enrolled*  
5           *with the organization.*

6           “(3) *ESTABLISHMENT OF RISK ADJUSTMENT*  
7           *FACTORS.—*

8           “(A) *IN GENERAL.—The Secretary shall de-*  
9           *velop and implement a method of risk adjust-*  
10           *ment of payment rates under this section that*  
11           *accounts for variations in per capita costs based*  
12           *on health status. Such method shall not be imple-*  
13           *mented before the Secretary receives an evalua-*  
14           *tion by an outside, independent actuary of the*  
15           *actuarial soundness of such method.*

16           “(B) *DATA COLLECTION.—In order to carry*  
17           *out this paragraph, the Secretary shall require*  
18           *Medicare Choice organizations (and eligible or-*  
19           *ganizations with risk-sharing contracts under*  
20           *section 1876) to submit, for periods beginning on*  
21           *or after January 1, 1998, data regarding inpa-*  
22           *tient hospital services and other services and*  
23           *other information the Secretary deems necessary.*

24           “(4) *INTERIM RISK ADJUSTMENT.—*

1           “(A) *IN GENERAL.*—*In the case of an appli-*  
2           *cable enrollee in a Medicare Choice plan, the*  
3           *payment to the Medicare Choice organization*  
4           *under this section shall be reduced by an amount*  
5           *equal to the applicable percentage of the amount*  
6           *of such payment (determined without regard to*  
7           *this paragraph).*

8           “(B) *APPLICABLE ENROLLEE.*—*For pur-*  
9           *poses of this paragraph—*

10           “(i) *IN GENERAL.*—*The term ‘applica-*  
11           *ble enrollee’ means, with respect to any*  
12           *month, a medicare eligible individual*  
13           *who—*

14           “(I) *is enrolled in a Medicare*  
15           *Choice plan, and*

16           “(II) *has not been enrolled in*  
17           *Medicare Choice plans and plans oper-*  
18           *ated by eligible organizations with*  
19           *risk-sharing contracts under section*  
20           *1876 for an aggregate number of*  
21           *months greater than 60 (including the*  
22           *month for which the determination is*  
23           *being made).*

24           “(ii) *EXCEPTION FOR BENEFICIARIES*  
25           *MAINTAINING ENROLLMENT IN CERTAIN*

1            *PLANS.—The term ‘applicable enrollee’ shall*  
 2            *not include any individual enrolled in a*  
 3            *Medicare Choice plan offered by a Medicare*  
 4            *Choice organization if such individual was*  
 5            *enrolled in a health plan (other than a Med-*  
 6            *icare Choice plan) offered by such organiza-*  
 7            *tion at the time of the individual’s initial*  
 8            *election period under section 1851(e)(1) and*  
 9            *has been continuously enrolled in such Med-*  
 10           *icare Choice plan (or another Medicare*  
 11           *Choice plan offered by such organization)*  
 12           *since such election period.*

13           “(C) *APPLICABLE PERCENTAGE.—For pur-*  
 14           *poses of this paragraph, the applicable percent-*  
 15           *age shall be determined in accordance with the*  
 16           *following table:*

| <b>“Months enrolled in HMOs:</b> | <b>Applicable<br/>percentage:</b> |
|----------------------------------|-----------------------------------|
| 1-12 .....                       | 5                                 |
| 13-24 .....                      | 4                                 |
| 25-36 .....                      | 3                                 |
| 37-48 .....                      | 2                                 |
| 49-60 .....                      | 1.                                |

17           “(D) *EXCEPTION FOR NEW PLANS.—This*  
 18           *paragraph shall not apply to applicable enrollees*  
 19           *in a Medicare Choice plan for any month if—*  
 20                      *“(i) such month occurs during the first*  
 21                      *12 months during which the plan enrolls*

1           *Medicare Choice eligible individuals in the*  
2           *Medicare Choice payment area, and*

3                   “(ii) *the annual Medicare Choice capi-*  
4                   *tation rate for such area for the calendar*  
5                   *year preceding the calendar year in which*  
6                   *such 12-month period begins is less than the*  
7                   *annual national Medicare Choice capitation*  
8                   *rate (as determined under subsection (c)(4))*  
9                   *for such preceding calendar year.*

10           *In the case of 1998, clause (ii) shall be applied*  
11           *by using the adjusted average per capita cost*  
12           *under section 1876 for 1997 rather than such*  
13           *capitation rate.*

14                   “(E) *TERMINATION.*—*This paragraph shall*  
15                   *not apply to any month beginning on or after*  
16                   *the first day of the first month to which the*  
17                   *method for risk adjustment described in para-*  
18                   *graph (3) applies.*

19           “(b) *ANNUAL ANNOUNCEMENT OF PAYMENT RATES.*—

20                   “(1) *ANNUAL ANNOUNCEMENT.*—*The Secretary*  
21                   *shall annually determine, and shall announce (in a*  
22                   *manner intended to provide notice to interested par-*  
23                   *ties) not later than August 1 before the calendar year*  
24                   *concerned—*

1           “(A) *the annual Medicare Choice capitation*  
2           *rate for each Medicare Choice payment area for*  
3           *the year, and*

4           “(B) *the risk and other factors to be used in*  
5           *adjusting such rates under subsection (a)(1)(A)*  
6           *for payments for months in that year.*

7           “(2) *ADVANCE NOTICE OF METHODOLOGICAL*  
8           *CHANGES.—At least 45 days before making the an-*  
9           *ouncement under paragraph (1) for a year, the Sec-*  
10          *retary shall provide for notice to Medicare Choice or-*  
11          *ganizations of proposed changes to be made in the*  
12          *methodology from the methodology and assumptions*  
13          *used in the previous announcement and shall provide*  
14          *such organizations an opportunity to comment on*  
15          *such proposed changes.*

16          “(3) *EXPLANATION OF ASSUMPTIONS.—In each*  
17          *announcement made under paragraph (1), the Sec-*  
18          *retary shall include an explanation of the assump-*  
19          *tions and changes in methodology used in the an-*  
20          *ouncement in sufficient detail so that Medicare*  
21          *Choice organizations can compute monthly adjusted*  
22          *Medicare Choice capitation rates for individuals in*  
23          *each Medicare Choice payment area which is in whole*  
24          *or in part within the service area of such an organi-*  
25          *zation.*

1       “(c) *CALCULATION OF ANNUAL MEDICARE CHOICE*  
2 *CAPITATION RATES.*—

3               “(1) *IN GENERAL.*—*For purposes of this part,*  
4 *each annual Medicare Choice capitation rate, for a*  
5 *Medicare Choice payment area for a contract year*  
6 *consisting of a calendar year, is equal to the largest*  
7 *of the amounts specified in the following subpara-*  
8 *graph (A), (B), or (C):*

9               “(A) *BLENDED CAPITATION RATE.*—*The*  
10 *sum of—*

11                       “(i) *the area-specific percentage for the*  
12 *year (as specified under paragraph (2) for*  
13 *the year) of the annual area-specific Medi-*  
14 *care Choice capitation rate for the year for*  
15 *the Medicare Choice payment area, as deter-*  
16 *mined under paragraph (3), and*

17                       “(ii) *the national percentage (as speci-*  
18 *fied under paragraph (2) for the year) of*  
19 *the annual national Medicare Choice capi-*  
20 *tation rate for the year, as determined*  
21 *under paragraph (4),*

22 *multiplied by the payment adjustment factors*  
23 *described in subparagraphs (A) and (B) of para-*  
24 *graph (5).*

1           “(B) *MINIMUM AMOUNT.*—*Subject to para-*  
2           *graph (8)—*

3           “(i) *For 1998, \$4,200 (but not to ex-*  
4           *ceed, in the case of an area outside the 50*  
5           *States and the District of Columbia, 150*  
6           *percent of the annual per capita rate of*  
7           *payment for 1997 determined under section*  
8           *1876(a)(1)(C) for the area).*

9           “(ii) *For each subsequent year, 101*  
10           *percent of the amount in effect under this*  
11           *subparagraph for the previous year.*

12           “(C) *MINIMUM PERCENTAGE INCREASE.*—  
13           *Subject to paragraph (8)—*

14           “(i) *For 1998, 101 percent of the an-*  
15           *nuual per capita rate of payment for 1997*  
16           *determined under section 1876(a)(1)(C) for*  
17           *the Medicare Choice payment area.*

18           “(ii) *For each subsequent year, 101*  
19           *percent of the annual Medicare Choice capi-*  
20           *tation rate under this paragraph for the*  
21           *area for the previous year.*

22           “(2) *AREA-SPECIFIC AND NATIONAL PERCENT-*  
23           *AGES.*—*For purposes of paragraph (1)(A)—*

1           “(A) for 1998, the ‘area-specific percentage’  
2           is 90 percent and the ‘national percentage’ is 10  
3           percent,

4           “(B) for 1999, the ‘area-specific percentage’  
5           is 80 percent and the ‘national percentage’ is 20  
6           percent,

7           “(C) for 2000, the ‘area-specific percentage’  
8           is 70 percent and the ‘national percentage’ is 30  
9           percent,

10           “(D) for 2001, the ‘area-specific percentage’  
11           is 60 percent and the ‘national percentage’ is 40  
12           percent, and

13           “(E) for a year after 2001, the ‘area-specific  
14           percentage’ is 50 percent and the ‘national per-  
15           centage’ is 50 percent.

16           “(3) ANNUAL AREA-SPECIFIC MEDICARE CHOICE  
17           CAPITATION RATE.—

18           “(A) IN GENERAL.—For purposes of para-  
19           graph (1)(A), the annual area-specific Medicare  
20           Choice capitation rate for a Medicare Choice  
21           payment area—

22           “(i) for 1998 is the modified annual  
23           per capita rate of payment for 1997 deter-  
24           mined under section 1876(a)(1)(C) for the  
25           area, increased by the national average per

1           *capita growth percentage for 1998 (as de-*  
2           *defined in paragraph (6)); or*

3           “(ii) *for a subsequent year is the an-*  
4           *annual area-specific Medicare Choice capita-*  
5           *tion rate for the previous year determined*  
6           *under this paragraph for the area, increased*  
7           *by the national average per capita growth*  
8           *percentage for such subsequent year.*

9           “(B) *MODIFIED ANNUAL PER CAPITA RATE*  
10          *OF PAYMENT.—For purposes of subparagraph*  
11          *(A), the modified annual per capita rate of pay-*  
12          *ment for a Medicare Choice payment area for*  
13          *1997 shall be equal to the annual per capita rate*  
14          *of payment for such area for such year which*  
15          *would have been determined under section*  
16          *1876(a)(1)(C) if 25 percent of any payments at-*  
17          *tributable to sections 1886(d)(5)(B), 1886(h),*  
18          *and 1886(d)(5)(F) (relating to IME, GME, and*  
19          *DSH payments) were not taken into account.*

20          “(C) *SPECIAL RULES FOR 1999, 2000, AND*  
21          *2001.—In applying subparagraph (A)(i) for*  
22          *1999, 2000, and 2001, the annual area-specific*  
23          *Medicare Choice capitation rate for the preced-*  
24          *ing calendar year shall be the amount which*  
25          *would have been determined if subparagraph (B)*

1           *had been applied by substituting the following*  
 2           *percentages for ‘25 percent’:*

3                     *“(i) In 1999, 50 percent.*

4                     *“(ii) In 2000, 75 percent.*

5                     *“(iii) In 2001, 100 percent.*

6                     *“(4) ANNUAL NATIONAL MEDICARE CHOICE CAPI-*  
 7           *TATION RATE.—For purposes of paragraph (1)(A), the*  
 8           *annual national Medicare Choice capitation rate for*  
 9           *a Medicare Choice payment area for a year is equal*  
 10          *to—*

11                     *“(A) the sum (for all Medicare Choice pay-*  
 12           *ment areas) of the product of—*

13                             *“(i) the annual area-specific Medicare*  
 14                             *Choice capitation rate for that year for the*  
 15                             *area under paragraph (3), and*

16                             *“(ii) the average number of medicare*  
 17                             *beneficiaries residing in that area in the*  
 18                             *year; divided by*

19                             *“(B) the sum of the amounts described in*  
 20           *subparagraph (A)(ii) for all Medicare Choice*  
 21           *payment areas for that year.*

22                     *“(5) PAYMENT ADJUSTMENT BUDGET NEUTRAL-*  
 23           *ITY FACTORS.—For purposes of paragraph (1)(A)—*

24                             *“(A) BLENDED RATE PAYMENT ADJUST-*  
 25           *MENT FACTOR.—For each year, the Secretary*

1 shall compute a blended rate payment adjust-  
2 ment factor such that, not taking into account  
3 subparagraphs (B) and (C) of paragraph (1)  
4 and the application of the payment adjustment  
5 factor described in subparagraph (B) but taking  
6 into account paragraph (7), the aggregate of the  
7 payments that would be made under this part is  
8 equal to the aggregate payments that would have  
9 been made under this part (not taking into ac-  
10 count such subparagraphs and such other adjust-  
11 ment factor) if the area-specific percentage under  
12 paragraph (1) for the year had been 100 percent  
13 and the national percentage had been 0 percent.

14 “(B) *FLOOR-AND-MINIMUM-UPDATE PAY-*  
15 *MENT ADJUSTMENT FACTOR.*—For each year, the  
16 Secretary shall compute a floor-and-minimum-  
17 update payment adjustment factor so that, tak-  
18 ing into account the application of the blended  
19 rate payment adjustment factor under subpara-  
20 graph (A) and subparagraphs (B) and (C) of  
21 paragraph (1) and the application of the adjust-  
22 ment factor under this subparagraph, the aggre-  
23 gate of the payments under this part shall not  
24 exceed the aggregate payments that would have  
25 been made under this part if subparagraphs (B)

1           *and (C) of paragraph (1) did not apply and if*  
2           *the floor-and-minimum-update payment adjust-*  
3           *ment factor under this subparagraph was 1.*

4           “(6) *NATIONAL AVERAGE PER CAPITA GROWTH*  
5           *PERCENTAGE DEFINED.—In this part, the ‘national*  
6           *average per capita growth percentage’ for any year*  
7           *(beginning with 1998) is equal to the sum of—*

8                   “(A) *the percentage increase in the gross do-*  
9                   *mestic product per capita for the 12-month pe-*  
10                   *riod ending on June 30 of the preceding year,*  
11                   *plus*

12                   “(B) *0.5 percentage points.*

13           “(7) *TREATMENT OF AREAS WITH HIGHLY VARI-*  
14           *ABLE PAYMENT RATES.—In the case of a Medicare*  
15           *Choice payment area for which the annual per capita*  
16           *rate of payment determined under section*  
17           *1876(a)(1)(C) for 1997 varies by more than 20 per-*  
18           *cent from such rate for 1996, for purposes of this sub-*  
19           *section the Secretary may substitute for such rate for*  
20           *1997 a rate that is more representative of the costs of*  
21           *the enrollees in the area.*

22           “(8) *ADJUSTMENTS TO MINIMUM AMOUNTS AND*  
23           *MINIMUM PERCENTAGE INCREASES.—After computing*  
24           *all amounts under this subsection (without regard to*  
25           *this paragraph) for any year, the Secretary shall—*

1           “(A) redetermine the amount under para-  
2           graph (1)(C) for such year by substituting ‘100  
3           percent’ for ‘101 percent’ each place it appears,  
4           and

5           “(B) increase the minimum amount under  
6           paragraph (1)(B) to an amount equal to the less-  
7           er of—

8                   “(i) the amount the Secretary esti-  
9                   mates will result in increased payments  
10                  under such paragraph equal to the decrease  
11                  in payments by reason of the redetermina-  
12                  tion under subparagraph (A), or

13                   “(ii) an amount equal to 85 percent of  
14                  the annual national Medicare Choice capi-  
15                  tation rate determined under paragraph  
16                  (4).

17           “(9) *STUDY OF LOCAL PRICE INDICATORS.*—*The*  
18           *Secretary and the Medicare Payment Advisory Com-*  
19           *mission shall each conduct a study with respect to ap-*  
20           *propriate measures for adjusting the annual Medicare*  
21           *Choice capitation rates determined under this section*  
22           *to reflect local price indicators, including the medi-*  
23           *care hospital wage index and the case-mix of a geo-*  
24           *graphic region. The Secretary and the Advisory Com-*  
25           *mission shall report the results of such study to the*

1       *appropriate committees of Congress, including rec-*  
2       *ommendations (if any) for legislation.*

3       “(d) *MEDICARE CHOICE PAYMENT AREA DEFINED.*—

4               “(1) *IN GENERAL.*—*In this part, except as pro-*  
5       *vided in paragraph (3), the term ‘Medicare Choice*  
6       *payment area’ means a county, or equivalent area*  
7       *specified by the Secretary.*

8               “(2) *RULE FOR ESRD BENEFICIARIES.*—*In the*  
9       *case of individuals who are determined to have end*  
10       *stage renal disease, the Medicare Choice payment area*  
11       *shall be a State or such other payment area as the*  
12       *Secretary specifies.*

13               “(3) *GEOGRAPHIC ADJUSTMENT.*—

14                       “(A) *IN GENERAL.*—*Upon written request of*  
15       *the chief executive officer of a State for a con-*  
16       *tract year (beginning after 1998) made at least*  
17       *7 months before the beginning of the year, the*  
18       *Secretary shall make a geographic adjustment to*  
19       *a Medicare Choice payment area in the State*  
20       *otherwise determined under paragraph (1)—*

21                               “(i) *to a single statewide Medicare*  
22                               *Choice payment area,*

23                               “(ii) *to the metropolitan based system*  
24                               *described in subparagraph (C), or*

1           “(iii) to consolidating into a single  
2           Medicare Choice payment area noncontig-  
3           uous counties (or equivalent areas described  
4           in paragraph (1)) within a State.

5           Such adjustment shall be effective for payments  
6           for months beginning with January of the year  
7           following the year in which the request is re-  
8           ceived.

9           “(B) BUDGET NEUTRALITY ADJUSTMENT.—  
10          In the case of a State requesting an adjustment  
11          under this paragraph, the Secretary shall adjust  
12          the payment rates otherwise established under  
13          this section for Medicare Choice payment areas  
14          in the State in a manner so that the aggregate  
15          of the payments under this section in the State  
16          shall not exceed the aggregate payments that  
17          would have been made under this section for  
18          Medicare Choice payment areas in the State in  
19          the absence of the adjustment under this para-  
20          graph.

21          “(C) METROPOLITAN BASED SYSTEM.—The  
22          metropolitan based system described in this sub-  
23          paragraph is one in which—

24                 “(i) all the portions of each metropoli-  
25                 tan statistical area in the State or in the

1           *case of a consolidated metropolitan statis-*  
2           *tical area, all of the portions of each pri-*  
3           *mary metropolitan statistical area within*  
4           *the consolidated area within the State, are*  
5           *treated as a single Medicare Choice pay-*  
6           *ment area, and*

7                   “(ii) *all areas in the State that do not*  
8           *fall within a metropolitan statistical area*  
9           *are treated as a single Medicare Choice pay-*  
10           *ment area.*

11                   “(D) *AREAS.*—*In subparagraph (C), the*  
12           *terms ‘metropolitan statistical area’, ‘consoli-*  
13           *dated metropolitan statistical area’, and ‘pri-*  
14           *mary metropolitan statistical area’ mean any*  
15           *area designated as such by the Secretary of Com-*  
16           *merce.*

17           “(e) *SPECIAL RULES FOR INDIVIDUALS ELECTING*  
18           *MSA PLANS.*—

19                   “(1) *IN GENERAL.*—*If the amount of the monthly*  
20           *premium for an MSA plan for a Medicare Choice*  
21           *payment area for a year is less than  $\frac{1}{12}$  of the an-*  
22           *nuual Medicare Choice capitation rate applied under*  
23           *this section for the area and year involved, the Sec-*  
24           *retary shall deposit an amount equal to 100 percent*  
25           *of such difference in a Medicare Choice MSA estab-*

1 *lished (and, if applicable, designated) by the individ-*  
2 *ual under paragraph (2).*

3 *“(2) ESTABLISHMENT AND DESIGNATION OF*  
4 *MEDICARE CHOICE MEDICAL SAVINGS ACCOUNT AS RE-*  
5 *QUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the*  
6 *case of an individual who has elected coverage under*  
7 *an MSA plan, no payment shall be made under para-*  
8 *graph (1) on behalf of an individual for a month un-*  
9 *less the individual—*

10 *“(A) has established before the beginning of*  
11 *the month (or by such other deadline as the Sec-*  
12 *retary may specify) a Medicare Choice MSA (as*  
13 *defined in section 138(b)(2) of the Internal Reve-*  
14 *nuue Code of 1986), and*

15 *“(B) if the individual has established more*  
16 *than one such Medicare Choice MSA, has des-*  
17 *ignated one of such accounts as the individual’s*  
18 *Medicare Choice MSA for purposes of this part.*

19 *Under rules under this section, such an individual*  
20 *may change the designation of such account under*  
21 *subparagraph (B) for purposes of this part.*

22 *“(3) LUMP-SUM DEPOSIT OF MEDICAL SAVINGS*  
23 *ACCOUNT CONTRIBUTION.—In the case of an individ-*  
24 *ual electing an MSA plan effective beginning with a*  
25 *month in a year, the amount of the contribution to*

1        *the Medicare Choice MSA on behalf of the individual*  
2        *for that month and all successive months in the year*  
3        *shall be deposited during that first month. In the case*  
4        *of a termination of such an election as of a month be-*  
5        *fore the end of a year, the Secretary shall provide for*  
6        *a procedure for the recovery of deposits attributable to*  
7        *the remaining months in the year.*

8                *“(4) SPECIAL RULE FOR APPLICABLE EN-*  
9        *ROLLEE.—In the case of an enrollee in a MSA plan*  
10        *for any month who is an applicable enrollee for such*  
11        *month under section 1853(a)(4)(B), the amount of the*  
12        *deposit under paragraph (1) for such month shall be*  
13        *reduced by the applicable percentage (as defined in*  
14        *section 1853(a)(4)(C)) of the amount of such deposit*  
15        *(determined without regard to this paragraph).*

16                *“(f) PAYMENTS FROM TRUST FUND.—The payment to*  
17        *a Medicare Choice organization under this section for indi-*  
18        *viduals enrolled under this part with the organization and*  
19        *payments to a Medicare Choice MSA under subsection*  
20        *(e)(1)(B) shall be made from the Federal Hospital Insur-*  
21        *ance Trust Fund and the Federal Supplementary Medical*  
22        *Insurance Trust Fund in such proportion as the Secretary*  
23        *determines reflects the relative weight that benefits under*  
24        *part A and under part B represents of the actuarial value*  
25        *of the total benefits under this title. Monthly payments oth-*

1 *erwise payable under this section for October 2001 shall be*  
2 *paid on the last business day of September 2001. Monthly*  
3 *payments otherwise payable under this section for October*  
4 *2006 shall be paid on the first business day of October 2006.*

5       “(g) *SPECIAL RULE FOR CERTAIN INPATIENT HOS-*  
6 *PITAL STAYS.—In the case of an individual who is receiv-*  
7 *ing inpatient hospital services from a subsection (d) hos-*  
8 *pital (as defined in section 1886(d)(1)(B)) as of the effective*  
9 *date of the individual’s—*

10               “(1) *election under this part of a Medicare*  
11 *Choice plan offered by a Medicare Choice organiza-*  
12 *tion—*

13                       “(A) *payment for such services until the*  
14 *date of the individual’s discharge shall be made*  
15 *under this title through the Medicare Choice plan*  
16 *or the traditional medicare fee-for-service pro-*  
17 *gram option described in section 1851(a)(1)(A)*  
18 *(as the case may be) elected before the election*  
19 *with such organization,*

20                       “(B) *the elected organization shall not be fi-*  
21 *nancially responsible for payment for such serv-*  
22 *ices until the date after the date of the individ-*  
23 *ual’s discharge, and*

1           “(C) the organization shall nonetheless be  
2           paid the full amount otherwise payable to the or-  
3           ganization under this part; or

4           “(2) termination of election with respect to a  
5           Medicare Choice organization under this part—

6           “(A) the organization shall be financially  
7           responsible for payment for such services after  
8           such date and until the date of the individual’s  
9           discharge,

10           “(B) payment for such services during the  
11           stay shall not be made under section 1886(d) or  
12           by any succeeding Medicare Choice organization,  
13           and

14           “(C) the terminated organization shall not  
15           receive any payment with respect to the individ-  
16           ual under this part during the period the indi-  
17           vidual is not enrolled.

18                                   “PREMIUMS

19           “SEC. 1854. (a) SUBMISSION AND CHARGING OF PRE-  
20           MIUMS.—

21           “(1) IN GENERAL.—Subject to paragraph (3),  
22           each Medicare Choice organization shall file with the  
23           Secretary each year, in a form and manner and at  
24           a time specified by the Secretary—

25           “(A) the amount of the monthly premium  
26           for coverage for services under section 1852(a)

1           *under each Medicare Choice plan it offers under*  
2           *this part in each Medicare Choice payment area*  
3           *(as defined in section 1853(d)) in which the plan*  
4           *is being offered; and*

5                     *“(B) the enrollment capacity in relation to*  
6                     *the plan in each such area.*

7           “(2) *TERMINOLOGY.—In this part—*

8                     *“(A) the term ‘monthly premium’ means,*  
9                     *with respect to a Medicare Choice plan offered by*  
10                    *a Medicare Choice organization, the monthly*  
11                    *premium filed under paragraph (1), not taking*  
12                    *into account the amount of any payment made*  
13                    *toward the premium under section 1853; and*

14                    *“(B) the term ‘net monthly premium’*  
15                    *means, with respect to such a plan and an indi-*  
16                    *vidual enrolled with the plan, the premium (as*  
17                    *defined in subparagraph (A)) for the plan re-*  
18                    *duced by the amount of payment made toward*  
19                    *such premium under section 1853.*

20           “(b) *MONTHLY PREMIUM CHARGED.—The monthly*  
21           *amount of the premium charged by a Medicare Choice orga-*  
22           *nization for a Medicare Choice plan offered in a Medicare*  
23           *Choice payment area to an individual under this part shall*  
24           *be equal to the net monthly premium plus any monthly pre-*

1 mium charged in accordance with subsection (e)(2) for sup-  
2 plemental benefits.

3 “(c) *UNIFORM PREMIUM.*—*The monthly premium and*  
4 *monthly amount charged under subsection (b) of a Medicare*  
5 *Choice organization under this part may not vary among*  
6 *individuals who reside in the same Medicare Choice pay-*  
7 *ment area.*

8 “(d) *TERMS AND CONDITIONS OF IMPOSING PRE-*  
9 *MIUMS.*—*Each Medicare Choice organization shall permit*  
10 *the payment of net monthly premiums on a monthly basis*  
11 *and may terminate election of individuals for a Medicare*  
12 *Choice plan for failure to make premium payments only*  
13 *in accordance with section 1851(g)(3)(B)(i). A Medicare*  
14 *Choice organization is not authorized to provide for cash*  
15 *or other monetary rebates as an inducement for enrollment*  
16 *or otherwise.*

17 “(e) *LIMITATION ON ENROLLEE COST-SHARING.*—

18 “(1) *FOR BASIC AND ADDITIONAL BENEFITS.*—  
19 *Except as provided in paragraph (2), in no event*  
20 *may—*

21 “(A) *the net monthly premium (multiplied*  
22 *by 12) and the actuarial value of the deductibles,*  
23 *coinsurance, and copayments applicable on aver-*  
24 *age to individuals enrolled under this part with*  
25 *a Medicare Choice plan of an organization with*

1           *respect to required benefits described in section*  
2           *1852(a)(1) and additional benefits (if any) re-*  
3           *quired under subsection (f)(1) for a year, exceed*

4           *“(B) the actuarial value of the deductibles,*  
5           *coinsurance, and copayments that would be ap-*  
6           *plicable on average to individuals entitled to*  
7           *benefits under part A and enrolled under part B*  
8           *if they were not members of a Medicare Choice*  
9           *organization for the year.*

10           *“(2) FOR SUPPLEMENTAL BENEFITS.—If the*  
11           *Medicare Choice organization provides to its members*  
12           *enrolled under this part supplemental benefits de-*  
13           *scribed in section 1852(a)(3), the sum of the monthly*  
14           *premium rate (multiplied by 12) charged for such*  
15           *supplemental benefits and the actuarial value of its*  
16           *deductibles, coinsurance, and copayments charged*  
17           *with respect to such benefits may not exceed the ad-*  
18           *justed community rate for such benefits (as defined in*  
19           *subsection (f)(4)).*

20           *“(3) EXCEPTION FOR MSA PLANS AND UNRE-*  
21           *STRICTED FEE-FOR-SERVICE PLANS.—Paragraphs (1)*  
22           *and (2) do not apply to an MSA plan or an unre-*  
23           *stricted fee-for-service plan.*

24           *“(4) DETERMINATION ON OTHER BASIS.—If the*  
25           *Secretary determines that adequate data are not*

1       *available to determine the actuarial value under*  
2       *paragraph (1)(A) or (2), the Secretary may determine*  
3       *such amount with respect to all individuals in the*  
4       *Medicare Choice payment area, the State, or in the*  
5       *United States, eligible to enroll in the Medicare*  
6       *Choice plan involved under this part or on the basis*  
7       *of other appropriate data.*

8       “(f) *REQUIREMENT FOR ADDITIONAL BENEFITS.*—

9               “(1) *REQUIREMENT.*—

10                       “(A) *IN GENERAL.*—*Each Medicare Choice*  
11                       *organization (in relation to a Medicare Choice*  
12                       *plan it offers) shall provide that if there is an*  
13                       *excess amount (as defined in subparagraph (B))*  
14                       *for the plan for a contract year, subject to the*  
15                       *succeeding provisions of this subsection, the orga-*  
16                       *nization shall provide to individuals such addi-*  
17                       *tional benefits (as the organization may specify)*  
18                       *in a value which is at least equal to the adjusted*  
19                       *excess amount (as defined in subparagraph (C)).*

20                       “(B) *EXCESS AMOUNT.*—*For purposes of*  
21                       *this paragraph, the ‘excess amount’, for an orga-*  
22                       *nization for a plan, is the amount (if any) by*  
23                       *which—*

24                                       “(i) *the average of the capitation pay-*  
25                                       *ments made to the organization under sec-*

1            *tion 1853 for the plan at the beginning of*  
2            *contract year, exceeds*

3            *“(ii) the actuarial value of the required*  
4            *benefits described in section 1852(a)(1)*  
5            *under the plan for individuals under this*  
6            *part, as determined based upon an adjusted*  
7            *community rate described in paragraph (4)*  
8            *(as reduced for the actuarial value of the co-*  
9            *insurance and deductibles under parts A*  
10           *and B).*

11           *“(C) ADJUSTED EXCESS AMOUNT.—For*  
12           *purposes of this paragraph, the ‘adjusted excess*  
13           *amount’, for an organization for a plan, is the*  
14           *excess amount reduced to reflect any amount*  
15           *withheld and reserved for the organization for*  
16           *the year under paragraph (3).*

17           *“(D) NO APPLICATION TO MSA PLANS.—*  
18           *Subparagraph (A) shall not apply to an MSA*  
19           *plan.*

20           *“(E) UNIFORM APPLICATION.—This para-*  
21           *graph shall be applied uniformly for all enrollees*  
22           *for a plan in a Medicare Choice payment area.*

23           *“(F) CONSTRUCTION.—Nothing in this sub-*  
24           *section shall be construed as preventing a Medi-*  
25           *care Choice organization from providing health*

1           *care benefits that are in addition to the benefits*  
2           *otherwise required to be provided under this*  
3           *paragraph and from imposing a premium for*  
4           *such additional benefits.*

5           “(2) *STABILIZATION FUND.*—*A Medicare Choice*  
6           *organization may provide that a part of the value of*  
7           *an excess amount described in paragraph (1) be with-*  
8           *held and reserved in the Federal Hospital Insurance*  
9           *Trust Fund and in the Federal Supplementary Medi-*  
10           *cal Insurance Trust Fund (in such proportions as the*  
11           *Secretary determines to be appropriate) by the Sec-*  
12           *retary for subsequent annual contract periods, to the*  
13           *extent required to stabilize and prevent undue fluc-*  
14           *tuations in the additional benefits offered in those*  
15           *subsequent periods by the organization in accordance*  
16           *with such paragraph. Any of such value of the*  
17           *amount reserved which is not provided as additional*  
18           *benefits described in paragraph (1)(A) to individuals*  
19           *electing the Medicare Choice plan of the organization*  
20           *in accordance with such paragraph prior to the end*  
21           *of such periods, shall revert for the use of such trust*  
22           *funds.*

23           “(3) *DETERMINATION BASED ON INSUFFICIENT*  
24           *DATA.*—*For purposes of this subsection, if the Sec-*  
25           *retary finds that there is insufficient enrollment expe-*

1        *rience to determine an average of the capitation pay-*  
2        *ments to be made under this part at the beginning of*  
3        *a contract period, the Secretary may determine such*  
4        *an average based on the enrollment experience of other*  
5        *contracts entered into under this part.*

6            *“(4) ADJUSTED COMMUNITY RATE.—*

7            *“(A) IN GENERAL.—For purposes of this*  
8        *subsection, subject to subparagraph (B), the term*  
9        *‘adjusted community rate’ for a service or serv-*  
10       *ices means, at the election of a Medicare Choice*  
11       *organization, either—*

12            *“(i) the rate of payment for that serv-*  
13        *ice or services which the Secretary annually*  
14        *determines would apply to an individual*  
15        *electing a Medicare Choice plan under this*  
16        *part if the rate of payment were determined*  
17        *under a ‘community rating system’ (as de-*  
18        *finied in section 1302(8) of the Public*  
19        *Health Service Act, other than subpara-*  
20        *graph (C)), or*

21            *“(ii) such portion of the weighted ag-*  
22        *gregate premium, which the Secretary an-*  
23        *nually estimates would apply to such an in-*  
24        *dividual, as the Secretary annually esti-*

1            *mates is attributable to that service or serv-*  
2            *ices,*  
3            *but adjusted for differences between the utiliza-*  
4            *tion characteristics of the individuals electing*  
5            *coverage under this part and the utilization*  
6            *characteristics of the other enrollees with the*  
7            *plan (or, if the Secretary finds that adequate*  
8            *data are not available to adjust for those dif-*  
9            *ferences, the differences between the utilization*  
10           *characteristics of individuals selecting other*  
11           *Medicare Choice coverage, or Medicare Choice el-*  
12           *igible individuals in the area, in the State, or in*  
13           *the United States, eligible to elect Medicare*  
14           *Choice coverage under this part and the utiliza-*  
15           *tion characteristics of the rest of the population*  
16           *in the area, in the State, or in the United States,*  
17           *respectively).*

18            *“(B) SPECIAL RULE FOR PROVIDER-SPON-*  
19            *SORED ORGANIZATIONS.—In the case of a Medi-*  
20            *care Choice organization that is a provider-spon-*  
21            *sored organization, the adjusted community rate*  
22            *under subparagraph (A) for a Medicare Choice*  
23            *plan of the organization may be computed (in a*  
24            *manner specified by the Secretary) using data in*  
25            *the general commercial marketplace or (during a*

1           *transition period) based on the costs incurred by*  
2           *the organization in providing such a plan.*

3           “(g) *PERIODIC AUDITING.*—*The Secretary shall pro-*  
4 *vide for the annual auditing of the financial records (in-*  
5 *cluding data relating to medicare utilization, costs, and*  
6 *computation of the adjusted community rate) of at least*  
7 *one-third of the Medicare Choice organizations offering*  
8 *Medicare Choice plans under this part. The Comptroller*  
9 *General shall monitor auditing activities conducted under*  
10 *this subsection.*

11           “(h) *PROHIBITION OF STATE IMPOSITION OF PREMIUM*  
12 *TAXES.*—*No State may impose a premium tax or similar*  
13 *tax with respect to payments on Medicare Choice plans or*  
14 *the offering of such plans.*

15           “*ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR*  
16           *MEDICARE CHOICE ORGANIZATIONS; PROVIDER-SPON-*  
17           *SORED ORGANIZATIONS*

18           “*SEC. 1855. (a) ORGANIZED AND LICENSED UNDER*  
19 *STATE LAW.*—

20           “(1) *IN GENERAL.*—*Subject to paragraphs (2)*  
21 *and (3), a Medicare Choice organization shall be or-*  
22 *ganized and licensed under State law as a risk-bear-*  
23 *ing entity eligible to offer health insurance or health*  
24 *benefits coverage in each State in which it offers a*  
25 *Medicare Choice plan.*

1           “(2) *SPECIAL EXCEPTION BEFORE 2001 FOR PRO-*  
2           *VIDER-SPONSORED ORGANIZATIONS.—*

3           “(A) *IN GENERAL.—In the case of a pro-*  
4           *vider-sponsored organization that seeks to offer a*  
5           *Medicare Choice plan in a State, the Secretary*  
6           *shall waive the requirement of paragraph (1)*  
7           *that the organization be licensed in that State*  
8           *for any year before 2001 if—*

9           “(i) *the organization files an applica-*  
10          *tion for such waiver with the Secretary, and*

11          “(ii) *the contract with the organization*  
12          *under section 1857 requires the organiza-*  
13          *tion to meet all requirements of State law*  
14          *which relate to the licensing of the organiza-*  
15          *tion (other than solvency requirements or a*  
16          *prohibition on licensure for such organiza-*  
17          *tion).*

18          “(B) *TREATMENT OF WAIVER.—*

19          “(i) *IN GENERAL.—In the case of a*  
20          *waiver granted under this paragraph for a*  
21          *provider-sponsored organization—*

22                  “(I) *the waiver shall be effective*  
23                  *for the years specified in the waiver,*  
24                  *except it may be renewed based on a*  
25                  *subsequent application, and*

1           “(II) subject to subparagraph  
2           (A)(ii), any provisions of State law  
3           which would otherwise prohibit the or-  
4           ganization from providing coverage  
5           pursuant to a contract under this part  
6           shall be superseded.

7           “(ii) *TERMINATION.*—A waiver grant-  
8           ed under this paragraph shall in no event  
9           extend beyond the earlier of—

10           “(I) December 31, 2000; or

11           “(II) the date on which the Sec-  
12           retary determines that the State has in  
13           effect solvency standards identical to  
14           the standards established under section  
15           1856(a).

16           “(C) *PROMPT ACTION ON APPLICATION.*—  
17           The Secretary shall grant or deny such a waiver  
18           application within 60 days after the date the  
19           Secretary determines that a substantially com-  
20           plete application has been filed.

21           “(D) *ENFORCEMENT OF STATE STAND-*  
22           *ARDS.*—

23           “(i) *IN GENERAL.*—The Secretary shall  
24           enter into agreements with States subject to  
25           a waiver under this paragraph to ensure the

1           adequate enforcement of standards incor-  
2           porated into the contract under subpara-  
3           graph (A)(ii). Such agreements shall pro-  
4           vide methods by which States may notify  
5           the Secretary of any failure by an organiza-  
6           tion to comply with such standards.

7           “(ii) ENFORCEMENT.—If the Secretary  
8           determines that an organization is not in  
9           compliance with the standards described in  
10          clause (i), the Secretary shall take appro-  
11          priate actions under subsections (g) and (h)  
12          with respect to civil penalties and termi-  
13          nation of the contract. The Secretary shall  
14          allow an organization 60 days to comply  
15          with the standards after notification of fail-  
16          ure.

17          “(E) REPORT.—The Secretary shall, not  
18          later than December 31, 1998, report to Congress  
19          on the waiver procedure in effect under this  
20          paragraph. Such report shall include an analysis  
21          of State efforts to adopt regulatory standards  
22          that take into account health plan sponsors that  
23          provide services directly to enrollees through af-  
24          filiated providers.

1           “(3) *EXCEPTION IF REQUIRED TO OFFER MORE*  
2           *THAN MEDICARE CHOICE PLANS.—Paragraph (1)*  
3           *shall not apply to a Medicare Choice organization in*  
4           *a State if the State requires the organization, as a*  
5           *condition of licensure, to offer any product or plan*  
6           *other than a Medicare Choice plan.*

7           “(4) *LICENSURE DOES NOT SUBSTITUTE FOR OR*  
8           *CONSTITUTE CERTIFICATION.—The fact that an orga-*  
9           *nization is licensed in accordance with paragraph (1)*  
10          *does not deem the organization to meet other require-*  
11          *ments imposed under this part.*

12          “(b) *PREPAID PAYMENT.—A Medicare Choice organi-*  
13          *zation shall be compensated (except for premiums,*  
14          *deductibles, coinsurance, and copayments) for the provision*  
15          *of health care services to enrolled members under the con-*  
16          *tract under this part by a payment which is paid on a*  
17          *periodic basis without regard to the date the health care*  
18          *services are provided and which is fixed without regard to*  
19          *the frequency, extent, or kind of health care service actually*  
20          *provided to a member.*

21          “(c) *ASSUMPTION OF FULL FINANCIAL RISK.—The*  
22          *Medicare Choice organization shall assume full financial*  
23          *risk on a prospective basis for the provision of the health*  
24          *care services (except, at the election of the organization, hos-*

1 *pice care) for which benefits are required to be provided*  
2 *under section 1852(a)(1), except that the organization—*

3           *“(1) may obtain insurance or make other ar-*  
4 *rangements for the cost of providing to any enrolled*  
5 *member such services the aggregate value of which for*  
6 *any year exceeds the applicable amount determined*  
7 *under the last sentence of this subsection for the year,*

8           *“(2) may obtain insurance or make other ar-*  
9 *rangements for the cost of such services provided to its*  
10 *enrolled members other than through the organization*  
11 *because medical necessity required their provision be-*  
12 *fore they could be secured through the organization,*

13           *“(3) may obtain insurance or make other ar-*  
14 *rangements for not more than 90 percent of the*  
15 *amount by which its costs for any of its fiscal years*  
16 *exceed 115 percent of its income for such fiscal year,*  
17 *and*

18           *“(4) may make arrangements with physicians or*  
19 *other health professionals, health care institutions, or*  
20 *any combination of such individuals or institutions*  
21 *to assume all or part of the financial risk on a pro-*  
22 *spective basis for the provision of basic health services*  
23 *by the physicians or other health professionals or*  
24 *through the institutions.*

1 *For purposes of paragraph (1), the applicable amount for*  
2 *1998 is the amount established by the Secretary, and for*  
3 *1999 and any succeeding year is the amount in effect for*  
4 *the previous year increased by the percentage change in the*  
5 *Consumer Price Index for all urban consumers (U.S. city*  
6 *average) for the 12-month period ending with June of the*  
7 *previous year.*

8       “(d) *CERTIFICATION OF PROVISION AGAINST RISK OF*  
9 *INSOLVENCY FOR PSOs.—*

10           “(1) *IN GENERAL.—Each Medicare Choice orga-*  
11 *nization that is a provider-sponsored organization*  
12 *with a waiver in effect under subsection (a)(2) shall*  
13 *meet the standards established under section 1856(a)*  
14 *with respect to the financial solvency and capital ade-*  
15 *quacy of the organization.*

16           “(2) *CERTIFICATION PROCESS FOR SOLVENCY*  
17 *STANDARDS FOR PSOs.—The Secretary shall establish*  
18 *a process for the receipt and approval of applications*  
19 *of a provider-sponsored organization for certification*  
20 *(and periodic recertification) of the organization as*  
21 *meeting such solvency standards. Under such process,*  
22 *the Secretary shall act upon such an application not*  
23 *later than 60 days after the date the application has*  
24 *been received.*

1       “(e) *PROVIDER-SPONSORED ORGANIZATION DE-*  
2 *FINED.*—

3               “(1) *IN GENERAL.*—*In this part, the term ‘pro-*  
4 *vider-sponsored organization’ means a public or pri-*  
5 *vate entity—*

6                       “(A) *that is established or organized and*  
7 *operated by a local health care provider, or local*  
8 *group of affiliated health care providers,*

9                       “(B) *that provides a substantial proportion*  
10 *(as defined by the Secretary in accordance with*  
11 *paragraph (2)) of the health care items and serv-*  
12 *ices under the contract under this part directly*  
13 *through the provider or affiliated group of pro-*  
14 *viders, and*

15                      “(C) *with respect to which those affiliated*  
16 *providers that share, directly or indirectly, sub-*  
17 *stantial financial risk with respect to the provi-*  
18 *sion of such items and services have at least a*  
19 *majority financial interest in the entity.*

20               “(2) *SUBSTANTIAL PROPORTION.*—*In defining*  
21 *what is a ‘substantial proportion’ for purposes of*  
22 *paragraph (1)(B), the Secretary—*

23                      “(A) *shall take into account the need for*  
24 *such an organization to assume responsibility for*  
25 *providing—*

1           “(i) significantly more than the major-  
2           ity of the items and services under the con-  
3           tract under this section through its own af-  
4           filiated providers; and

5           “(ii) most of the remainder of the  
6           items and services under the contract  
7           through providers with which the organiza-  
8           tion has an agreement to provide such items  
9           and services,

10          in order to assure financial stability and to ad-  
11          dress the practical considerations involved in in-  
12          tegrating the delivery of a wide range of service  
13          providers;

14          “(B) shall take into account the need for  
15          such an organization to provide a limited pro-  
16          portion of the items and services under the con-  
17          tract through providers that are neither affiliated  
18          with nor have an agreement with the organiza-  
19          tion; and

20          “(C) may allow for variation in the defini-  
21          tion of substantial proportion among such orga-  
22          nizations based on relevant differences among the  
23          organizations, such as their location in an urban  
24          or rural area.

1           “(3) *AFFILIATION.*—For purposes of this sub-  
2           section, a provider is ‘affiliated’ with another pro-  
3           vider if, through contract, ownership, or otherwise—

4                   “(A) one provider, directly or indirectly,  
5                   controls, is controlled by, or is under common  
6                   control with the other,

7                   “(B) both providers are part of a controlled  
8                   group of corporations under section 1563 of the  
9                   Internal Revenue Code of 1986,

10                  “(C) each provider is a participant in a  
11                  lawful combination under which each provider  
12                  shares substantial financial risk in connection  
13                  with the organization’s operations, or

14                  “(D) both providers are part of an affiliated  
15                  service group under section 414 of such Code.

16           “(4) *CONTROL.*—For purposes of paragraph (3),  
17           control is presumed to exist if one party, directly or  
18           indirectly, owns, controls, or holds the power to vote,  
19           or proxies for, not less than 51 percent of the voting  
20           rights or governance rights of another.

21           “(5) *HEALTH CARE PROVIDER DEFINED.*—In  
22           this subsection, the term ‘health care provider’  
23           means—

24                   “(A) any individual who is engaged in the  
25                   delivery of health care services in a State and

1           *who is required by State law or regulation to be*  
2           *licensed or certified by the State to engage in the*  
3           *delivery of such services in the State, and*

4           *“(B) any entity that is engaged in the de-*  
5           *livery of health care services in a State and that,*  
6           *if it is required by State law or regulation to be*  
7           *licensed or certified by the State to engage in the*  
8           *delivery of such services in the State, is so li-*  
9           *censed.*

10           *“(6) REGULATIONS.—The Secretary shall issue*  
11           *regulations to carry out this subsection.*

12           *“ESTABLISHMENT OF STANDARDS*

13           *“SEC. 1856. (a) ESTABLISHMENT OF SOLVENCY*  
14           *STANDARDS FOR PROVIDER-SPONSORED ORGANIZA-*  
15           *TIONS.—*

16           *“(1) ESTABLISHMENT.—*

17           *“(A) IN GENERAL.—The Secretary shall es-*  
18           *tablish, on an expedited basis and using a nego-*  
19           *tiated rulemaking process under subchapter III*  
20           *of chapter 5 of title 5, United States Code, stand-*  
21           *ards described in section 1855(d)(1) (relating to*  
22           *the financial solvency and capital adequacy of*  
23           *the organization) that entities must meet to*  
24           *qualify as provider-sponsored organizations*  
25           *under this part.*

1           “(B) *FACTORS TO CONSIDER FOR SOLVENCY*  
2           *STANDARDS.—In establishing solvency standards*  
3           *under subparagraph (A) for provider-sponsored*  
4           *organizations, the Secretary shall consult with*  
5           *interested parties and shall take into account—*

6                     “(i) *the delivery system assets of such*  
7                     *an organization and ability of such an or-*  
8                     *ganization to provide services directly to en-*  
9                     *rollees through affiliated providers,*

10                    “(ii) *alternative means of protecting*  
11                    *against insolvency, including reinsurance,*  
12                    *unrestricted surplus, letters of credit, guar-*  
13                    *antees, organizational insurance coverage,*  
14                    *partnerships with other licensed entities,*  
15                    *and valuation attributable to the ability of*  
16                    *such an organization to meet its service ob-*  
17                    *ligations through direct delivery of care,*  
18                    *and*

19                    “(iii) *any standards developed by the*  
20                    *National Association of Insurance Commis-*  
21                    *sioners specifically for risk-based health care*  
22                    *delivery organizations.*

23           “(C) *ENROLLEE PROTECTION AGAINST IN-*  
24           *SOLVENCY.—Such standards shall include provi-*  
25           *sions to prevent enrollees from being held liable*

1           to any person or entity for the Medicare Choice  
2           organization's debts in the event of the organiza-  
3           tion's insolvency.

4           “(2) *PUBLICATION OF NOTICE.*—In carrying out  
5           the rulemaking process under this subsection, the Sec-  
6           retary, after consultation with the National Associa-  
7           tion of Insurance Commissioners, the American Acad-  
8           emy of Actuaries, organizations representative of  
9           medicare beneficiaries, and other interested parties,  
10          shall publish the notice provided for under section  
11          564(a) of title 5, United States Code, by not later  
12          than 45 days after the date of the enactment of this  
13          section.

14          “(3) *TARGET DATE FOR PUBLICATION OF*  
15          *RULE.*—As part of the notice under paragraph (2),  
16          and for purposes of this subsection, the ‘target date  
17          for publication’ (referred to in section 564(a)(5) of  
18          such title) shall be April 1, 1998.

19          “(4) *ABBREVIATED PERIOD FOR SUBMISSION OF*  
20          *COMMENTS.*—In applying section 564(c) of such title  
21          under this subsection, ‘15 days’ shall be substituted  
22          for ‘30 days’.

23          “(5) *APPOINTMENT OF NEGOTIATED RULE-*  
24          *MAKING COMMITTEE AND FACILITATOR.*—The Sec-  
25          retary shall provide for—

1           “(A) the appointment of a negotiated rule-  
2           making committee under section 565(a) of such  
3           title by not later than 30 days after the end of  
4           the comment period provided for under section  
5           564(c) of such title (as shortened under para-  
6           graph (4)), and

7           “(B) the nomination of a facilitator under  
8           section 566(c) of such title by not later than 10  
9           days after the date of appointment of the com-  
10          mittee.

11          “(6) *PRELIMINARY COMMITTEE REPORT.*—*The*  
12          *negotiated rulemaking committee appointed under*  
13          *paragraph (5) shall report to the Secretary, by not*  
14          *later than January 1, 1998, regarding the commit-*  
15          *tee’s progress on achieving a consensus with regard to*  
16          *the rulemaking proceeding and whether such consen-*  
17          *sus is likely to occur before 1 month before the target*  
18          *date for publication of the rule. If the committee re-*  
19          *ports that the committee has failed to make signifi-*  
20          *cant progress towards such consensus or is unlikely to*  
21          *reach such consensus by the target date, the Secretary*  
22          *may terminate such process and provide for the publi-*  
23          *cation of a rule under this subsection through such*  
24          *other methods as the Secretary may provide.*

1           “(7) *FINAL COMMITTEE REPORT.*—*If the commit-*  
2           *tee is not terminated under paragraph (6), the rule-*  
3           *making committee shall submit a report containing a*  
4           *proposed rule by not later than 1 month before the*  
5           *target date of publication.*

6           “(8) *INTERIM, FINAL EFFECT.*—*The Secretary*  
7           *shall publish a rule under this subsection in the Fed-*  
8           *eral Register by not later than the target date of pub-*  
9           *lication. Such rule shall be effective and final imme-*  
10           *diately on an interim basis, but is subject to change*  
11           *and revision after public notice and opportunity for*  
12           *a period (of not less than 60 days) for public com-*  
13           *ment. In connection with such rule, the Secretary*  
14           *shall specify the process for the timely review and ap-*  
15           *proval of applications of entities to be certified as*  
16           *provider-sponsored organizations pursuant to such*  
17           *rules and consistent with this subsection.*

18           “(9) *PUBLICATION OF RULE AFTER PUBLIC COM-*  
19           *MENT.*—*The Secretary shall provide for consideration*  
20           *of such comments and republication of such rule by*  
21           *not later than 1 year after the target date of publica-*  
22           *tion.*

23           “(b) *ESTABLISHMENT OF OTHER STANDARDS.*—

24           “(1) *IN GENERAL.*—*The Secretary shall establish*  
25           *by regulation other standards (not described in sub-*

1        *section (a)) for Medicare Choice organizations and*  
2        *plans consistent with, and to carry out, this part.*

3            *“(2) USE OF CURRENT STANDARDS.—Consistent*  
4        *with the requirements of this part, standards estab-*  
5        *lished under this subsection shall be based on stand-*  
6        *ards established under section 1876 to carry out anal-*  
7        *ogous provisions of such section.*

8            *“(3) USE OF INTERIM STANDARDS.—For the pe-*  
9        *riod in which this part is in effect and standards are*  
10       *being developed and established under the preceding*  
11       *provisions of this subsection, the Secretary shall pro-*  
12       *vide by not later than June 1, 1998, for the applica-*  
13       *tion of such interim standards (without regard to any*  
14       *requirements for notice and public comment) as may*  
15       *be appropriate to provide for the expedited implemen-*  
16       *tation of this part. Such interim standards shall not*  
17       *apply after the date standards are established under*  
18       *the preceding provisions of this subsection.*

19           *“(4) APPLICATION OF NEW STANDARDS TO ENTI-*  
20       *TIES WITH A CONTRACT.—In the case of a Medicare*  
21       *Choice organization with a contract in effect under*  
22       *this part at the time standards applicable to the orga-*  
23       *nization under this section are changed, the organiza-*  
24       *tion may elect not to have such changes apply to the*  
25       *organization until the end of the current contract*

1       year (or, if there is less than 6 months remaining in  
2       the contract year, until 1 year after the end of the  
3       current contract year).

4               “(5) *RELATION TO STATE LAWS.*—The standards  
5       established under this subsection shall supersede any  
6       State law or regulation with respect to Medicare  
7       Choice plans which are offered by Medicare Choice or-  
8       ganizations under this part to the extent such law or  
9       regulation is inconsistent with such standards.

10       “*CONTRACTS WITH MEDICARE CHOICE ORGANIZATIONS*

11               “*SEC. 1857. (a) IN GENERAL.*—The Secretary shall  
12       not permit the election under section 1851 of a Medicare  
13       Choice plan offered by a Medicare Choice organization  
14       under this part, and no payment shall be made under sec-  
15       tion 1853 to an organization, unless the Secretary has en-  
16       tered into a contract under this section with the organiza-  
17       tion with respect to the offering of such plan. Such a con-  
18       tract with an organization may cover more than 1 Medicare  
19       Choice plan. Such contract shall provide that the organiza-  
20       tion agrees to comply with the applicable requirements and  
21       standards of this part and the terms and conditions of pay-  
22       ment as provided for in this part.

23               “(b) *MINIMUM ENROLLMENT REQUIREMENTS.*—

24               “(1) *IN GENERAL.*—Subject to paragraph (2), the  
25       Secretary may not enter into a contract under this  
26       section with a Medicare Choice organization unless

1       *the organization has at least 1,500 individuals who*  
2       *are receiving health benefits through the organization*  
3       *(500 such individuals if the organization primarily*  
4       *serves individuals residing outside of urbanized*  
5       *areas).*

6               “(2) *ALLOWING TRANSITION.*—*The Secretary*  
7       *may waive the requirement of paragraph (1) during*  
8       *the first 2 contract years with respect to an organiza-*  
9       *tion.*

10              “(3) *SPECIAL RULE FOR PSO.*—*In the case of a*  
11       *Medicare Choice organization which is a provider-*  
12       *sponsored organization, paragraph (1) shall be ap-*  
13       *plied by taking into account individuals for whom the*  
14       *organization has assumed substantial financial risk.*

15              “(c) *CONTRACT PERIOD AND EFFECTIVENESS.*—

16              “(1) *PERIOD.*—*Each contract under this section*  
17       *shall be for a term of at least 1 year, as determined*  
18       *by the Secretary, and may be made automatically re-*  
19       *newable from term to term in the absence of notice by*  
20       *either party of intention to terminate at the end of*  
21       *the current term.*

22              “(2) *TERMINATION AUTHORITY.*—*In accordance*  
23       *with procedures established under subsection (h), the*  
24       *Secretary may at any time terminate any such con-*  
25       *tract, or may impose the intermediate sanctions de-*

1       scribed in an applicable paragraph of subsection  
2       (g)(3) on the Medicare Choice organization, if the  
3       Secretary determines that the organization—

4               “(A) has failed substantially to carry out  
5       the contract;

6               “(B) is carrying out the contract in a man-  
7       ner inconsistent with the efficient and effective  
8       administration of this part; or

9               “(C) no longer substantially meets the ap-  
10      plicable conditions of this part.

11              “(3) *EFFECTIVE DATE OF CONTRACTS.*—The ef-  
12      fective date of any contract executed pursuant to this  
13      section shall be specified in the contract, except that  
14      in no case shall a contract under this section which  
15      provides for coverage under an MSA plan be effective  
16      before January 1999 with respect to such coverage.

17              “(4) *PREVIOUS TERMINATIONS.*—The Secretary  
18      may not enter into a contract with a Medicare Choice  
19      organization if a previous contract with that organi-  
20      zation under this section was terminated at the re-  
21      quest of the organization within the preceding 5-year  
22      period, except in circumstances which warrant special  
23      consideration, as determined by the Secretary.

24              “(5) *NO CONTRACTING AUTHORITY.*—The author-  
25      ity vested in the Secretary by this part may be per-

1       *formed without regard to such provisions of law or*  
2       *regulations relating to the making, performance,*  
3       *amendment, or modification of contracts of the Unit-*  
4       *ed States as the Secretary may determine to be incon-*  
5       *sistent with the furtherance of the purpose of this*  
6       *title.*

7       “(d) *PROTECTIONS AGAINST FRAUD AND BENEFICIARY*  
8       *PROTECTIONS.—*

9               “(1) *INSPECTION AND AUDIT.—Each contract*  
10       *under this section shall provide that the Secretary, or*  
11       *any person or organization designated by the Sec-*  
12       *retary—*

13                       “(A) *shall have the right to inspect or other-*  
14       *wise evaluate (i) the quality, appropriateness,*  
15       *and timeliness of services performed under the*  
16       *contract and (ii) the facilities of the organization*  
17       *when there is reasonable evidence of some need*  
18       *for such inspection, and*

19                       “(B) *shall have the right to audit and in-*  
20       *spect any books and records of the Medicare*  
21       *Choice organization that pertain (i) to the abil-*  
22       *ity of the organization to bear the risk of poten-*  
23       *tial financial losses, or (ii) to services performed*  
24       *or determinations of amounts payable under the*  
25       *contract.*

1           “(2) *ENROLLEE NOTICE AT TIME OF TERMI-*  
2           *NATION.—Each contract under this section shall re-*  
3           *quire the organization to provide (and pay for) writ-*  
4           *ten notice in advance of the contract’s termination, as*  
5           *well as a description of alternatives for obtaining ben-*  
6           *efits under this title, to each individual enrolled with*  
7           *the organization under this part.*

8           “(3) *DISCLOSURE.—*

9           “(A) *IN GENERAL.—Each Medicare Choice*  
10           *organization shall, in accordance with regula-*  
11           *tions of the Secretary, report to the Secretary fi-*  
12           *nancial information which shall include the fol-*  
13           *lowing:*

14                   “(i) *Such information as the Secretary*  
15                   *may require demonstrating that the organi-*  
16                   *zation has a fiscally sound operation.*

17                   “(ii) *A copy of the report, if any, filed*  
18                   *with the Health Care Financing Adminis-*  
19                   *tration containing the information required*  
20                   *to be reported under section 1124 by disclos-*  
21                   *ing entities.*

22                   “(iii) *A description of transactions, as*  
23                   *specified by the Secretary, between the orga-*  
24                   *nization and a party in interest. Such*  
25                   *transactions shall include—*

1           “(I) any sale or exchange, or leas-  
2           ing of any property between the orga-  
3           nization and a party in interest;

4           “(II) any furnishing for consider-  
5           ation of goods, services (including  
6           management services), or facilities be-  
7           tween the organization and a party in  
8           interest, but not including salaries  
9           paid to employees for services provided  
10          in the normal course of their employ-  
11          ment and health services provided to  
12          members by hospitals and other pro-  
13          viders and by staff, medical group (or  
14          groups), individual practice associa-  
15          tion (or associations), or any combina-  
16          tion thereof; and

17          “(III) any lending of money or  
18          other extension of credit between an or-  
19          ganization and a party in interest.

20          *The Secretary may require that information re-*  
21          *ported respecting an organization which controls,*  
22          *is controlled by, or is under common control*  
23          *with, another entity be in the form of a consoli-*  
24          *dated financial statement for the organization*  
25          *and such entity.*

1           “(B) *PARTY IN INTEREST DEFINED.*—For  
2           the purposes of this paragraph, the term ‘party  
3           in interest’ means—

4                   “(i) any director, officer, partner, or  
5                   employee responsible for management or ad-  
6                   ministration of a Medicare Choice organiza-  
7                   tion, any person who is directly or indi-  
8                   rectly the beneficial owner of more than 5  
9                   percent of the equity of the organization,  
10                  any person who is the beneficial owner of a  
11                  mortgage, deed of trust, note, or other inter-  
12                  est secured by, and valuing more than 5  
13                  percent of the organization, and, in the case  
14                  of a Medicare Choice organization orga-  
15                  nized as a nonprofit corporation, an incor-  
16                  porator or member of such corporation  
17                  under applicable State corporation law;

18                  “(ii) any entity in which a person de-  
19                  scribed in clause (i)—

20                           “(I) is an officer or director;

21                           “(II) is a partner (if such entity  
22                           is organized as a partnership);

23                           “(III) has directly or indirectly a  
24                           beneficial interest of more than 5 per-  
25                           cent of the equity; or

1                   “(IV) has a mortgage, deed of  
2                   trust, note, or other interest valuing  
3                   more than 5 percent of the assets of  
4                   such entity;

5                   “(iii) any person directly or indirectly  
6                   controlling, controlled by, or under common  
7                   control with an organization; and

8                   “(iv) any spouse, child, or parent of an  
9                   individual described in clause (i).

10                  “(C) ACCESS TO INFORMATION.—Each Med-  
11                  icare Choice organization shall make the infor-  
12                  mation reported pursuant to subparagraph (A)  
13                  available to its enrollees upon reasonable request.

14                  “(4) LOAN INFORMATION.—The contract shall re-  
15                  quire the organization to notify the Secretary of loans  
16                  and other special financial arrangements which are  
17                  made between the organization and subcontractors,  
18                  affiliates, and related parties.

19                  “(e) ADDITIONAL CONTRACT TERMS.—

20                  “(1) IN GENERAL.—The contract shall contain  
21                  such other terms and conditions not inconsistent with  
22                  this part (including requiring the organization to  
23                  provide the Secretary with such information) as the  
24                  Secretary may find necessary and appropriate.

1           “(2) *COST-SHARING IN ENROLLMENT-RELATED*  
2           *COSTS.—The contract with a Medicare Choice organi-*  
3           *zation shall require the payment to the Secretary for*  
4           *the organization’s pro rata share (as determined by*  
5           *the Secretary) of the estimated costs to be incurred by*  
6           *the Secretary in carrying out section 1851 (relating*  
7           *to enrollment and dissemination of information).*  
8           *Such payments are appropriated to defray the costs*  
9           *described in the preceding sentence, to remain avail-*  
10           *able until expended.*

11           “(3) *NOTICE TO ENROLLEES IN CASE OF DECER-*  
12           *TIFICATION.—If a contract with a Medicare Choice*  
13           *organization is terminated under this section, the or-*  
14           *ganization shall notify each enrollee with the organi-*  
15           *zation under this part of such termination.*

16           “(f) *PROMPT PAYMENT BY MEDICARE CHOICE ORGA-*  
17           *NIZATION.—*

18           “(1) *REQUIREMENT.—A contract under this part*  
19           *shall require a Medicare Choice organization to pro-*  
20           *vide prompt payment (consistent with the provisions*  
21           *of sections 1816(c)(2) and 1842(c)(2)) of claims sub-*  
22           *mitted for services and supplies furnished to individ-*  
23           *uals pursuant to the contract, if the services or sup-*  
24           *plies are not furnished under a contract between the*  
25           *organization and the provider or supplier.*

1           “(2) *SECRETARY’S OPTION TO BYPASS NON-*  
2 *COMPLYING ORGANIZATION.*—*In the case of a Medi-*  
3 *care Choice eligible organization which the Secretary*  
4 *determines, after notice and opportunity for a hear-*  
5 *ing, has failed to make payments of amounts in com-*  
6 *pliance with paragraph (1), the Secretary may pro-*  
7 *vide for direct payment of the amounts owed to pro-*  
8 *viders and suppliers for covered services and supplies*  
9 *furnished to individuals enrolled under this part*  
10 *under the contract. If the Secretary provides for the*  
11 *direct payments, the Secretary shall provide for an*  
12 *appropriate reduction in the amount of payments*  
13 *otherwise made to the organization under this part to*  
14 *reflect the amount of the Secretary’s payments (and*  
15 *the Secretary’s costs in making the payments).*

16           “(g) *INTERMEDIATE SANCTIONS.*—

17           “(1) *IN GENERAL.*—*If the Secretary determines*  
18 *that a Medicare Choice organization with a contract*  
19 *under this section—*

20           “(A) *fails substantially to provide medically*  
21 *necessary items and services that are required*  
22 *(under law or under the contract) to be provided*  
23 *to an individual covered under the contract, if*  
24 *the failure has adversely affected (or has substan-*

1           *tial likelihood of adversely affecting) the individ-*  
2           *ual;*

3           “(B) imposes net monthly premiums on in-

4           *dividuals enrolled under this part in excess of*

5           *the net monthly premiums permitted;*

6           “(C) acts to expel or to refuse to re-enroll an

7           *individual in violation of the provisions of this*

8           *part;*

9           “(D) engages in any practice that would

10           *reasonably be expected to have the effect of deny-*

11           *ing or discouraging enrollment (except as per-*

12           *mitted by this part) by eligible individuals with*

13           *the organization whose medical condition or his-*

14           *tory indicates a need for substantial future medi-*

15           *cal services;*

16           “(E) misrepresents or falsifies information

17           *that is furnished—*

18                   “(i) to the Secretary under this part,

19                   *or*

20                   “(ii) to an individual or to any other

21                   *entity under this part;*

22           “(F) fails to comply with the requirements

23           *of section 1852(j)(3); or*

24           “(G) employs or contracts with any indi-

25           *vidual or entity that is excluded from participa-*

1            *tion under this title under section 1128 or 1128A*  
2            *for the provision of health care, utilization re-*  
3            *view, medical social work, or administrative*  
4            *services or employs or contracts with any entity*  
5            *for the provision (directly or indirectly) through*  
6            *such an excluded individual or entity of such*  
7            *services;*

8            *the Secretary may provide, in addition to any other*  
9            *remedies authorized by law, for any of the remedies*  
10           *described in paragraph (2).*

11            *“(2) REMEDIES.—The remedies described in this*  
12            *paragraph are—*

13            *“(A) civil money penalties of not more than*  
14            *\$25,000 for each determination under paragraph*  
15            *(1) or, with respect to a determination under*  
16            *subparagraph (D) or (E)(i) of such paragraph,*  
17            *of not more than \$100,000 for each such deter-*  
18            *mination, plus, with respect to a determination*  
19            *under paragraph (1)(B), double the excess*  
20            *amount charged in violation of such paragraph*  
21            *(and the excess amount charged shall be deducted*  
22            *from the penalty and returned to the individual*  
23            *concerned), and plus, with respect to a deter-*  
24            *mination under paragraph (1)(D), \$15,000 for*

1           *each individual not enrolled as a result of the*  
2           *practice involved,*

3           “(B) *suspension of enrollment of individ-*  
4           *uals under this part after the date the Secretary*  
5           *notifies the organization of a determination*  
6           *under paragraph (1) and until the Secretary is*  
7           *satisfied that the basis for such determination*  
8           *has been corrected and is not likely to recur, or*

9           “(C) *suspension of payment to the organiza-*  
10          *tion under this part for individuals enrolled*  
11          *after the date the Secretary notifies the organiza-*  
12          *tion of a determination under paragraph (1)*  
13          *and until the Secretary is satisfied that the basis*  
14          *for such determination has been corrected and is*  
15          *not likely to recur.*

16          “(3) *OTHER INTERMEDIATE SANCTIONS.—In the*  
17          *case of a Medicare Choice organization for which the*  
18          *Secretary makes a determination under subsection*  
19          *(c)(2) the basis of which is not described in para-*  
20          *graph (1), the Secretary may apply the following in-*  
21          *termediate sanctions:*

22                 “(A) *Civil money penalties of not more*  
23                 *than \$25,000 for each determination under sub-*  
24                 *section (c)(2) if the deficiency that is the basis*  
25                 *of the determination has directly adversely af-*

1        *pected (or has the substantial likelihood of ad-*  
2        *versely affecting) an individual covered under*  
3        *the organization’s contract.*

4                *“(B) Civil money penalties of not more*  
5        *than \$10,000 for each week beginning after the*  
6        *initiation of procedures by the Secretary under*  
7        *subsection (g) during which the deficiency that is*  
8        *the basis of a determination under subsection*  
9        *(c)(2) exists.*

10               *“(C) Suspension of enrollment of individ-*  
11        *uals under this part after the date the Secretary*  
12        *notifies the organization of a determination*  
13        *under subsection (c)(2) and until the Secretary*  
14        *is satisfied that the deficiency that is the basis*  
15        *for the determination has been corrected and is*  
16        *not likely to recur.*

17               *“(4) CIVIL MONEY PENALTIES.—The provisions*  
18        *of section 1128A (other than subsections (a) and (b))*  
19        *shall apply to a civil money penalty under subsection*  
20        *(f) or under paragraph (2) or (3) of this subsection*  
21        *in the same manner as they apply to a civil money*  
22        *penalty or proceeding under section 1128A(a).*

23               *“(h) PROCEDURES FOR TERMINATION.—*

24               *“(1) IN GENERAL.—The Secretary may termi-*  
25        *nate a contract with a Medicare Choice organization*

1        *under this section in accordance with formal inves-*  
2        *tigation and compliance procedures established by the*  
3        *Secretary under which—*

4                *“(A) the Secretary provides the organiza-*  
5                *tion with the reasonable opportunity to develop*  
6                *and implement a corrective action plan to cor-*  
7                *rect the deficiencies that were the basis of the*  
8                *Secretary’s determination under subsection*  
9                *(c)(2);*

10               *“(B) the Secretary shall impose more severe*  
11               *sanctions on an organization that has a history*  
12               *of deficiencies or that has not taken steps to cor-*  
13               *rect deficiencies the Secretary has brought to the*  
14               *organization’s attention;*

15               *“(C) there are no unreasonable or unneces-*  
16               *sary delays between the finding of a deficiency*  
17               *and the imposition of sanctions; and*

18               *“(D) the Secretary provides the organiza-*  
19               *tion with reasonable notice and opportunity for*  
20               *hearing (including the right to appeal an initial*  
21               *decision) before terminating the contract.*

22               *“(2) EXCEPTION FOR IMMINENT AND SERIOUS*  
23               *RISK TO HEALTH.—Paragraph (1) shall not apply if*  
24               *the Secretary determines that a delay in termination,*  
25               *resulting from compliance with the procedures speci-*

1 *fied in such paragraph prior to termination, would*  
 2 *pose an imminent and serious risk to the health of in-*  
 3 *dividuals enrolled under this part with the organiza-*  
 4 *tion.*

5 “DEFINITIONS; MISCELLANEOUS PROVISIONS

6 “SEC. 1859. (a) DEFINITIONS RELATING TO MEDI-  
 7 CARE CHOICE ORGANIZATIONS.—*In this part—*

8 “(1) MEDICARE CHOICE ORGANIZATION.—*The*  
 9 *term ‘Medicare Choice organization’ means a public*  
 10 *or private entity that is certified under section 1856*  
 11 *as meeting the requirements and standards of this*  
 12 *part for such an organization.*

13 “(2) PROVIDER-SPONSORED ORGANIZATION.—  
 14 *The term ‘provider-sponsored organization’ is defined*  
 15 *in section 1855(e)(1).*

16 “(b) DEFINITIONS RELATING TO MEDICARE CHOICE  
 17 PLANS.—

18 “(1) MEDICARE CHOICE PLAN.—*The term ‘Medi-*  
 19 *care Choice plan’ means health benefits coverage of-*  
 20 *fered under a policy, contract, or plan by a Medicare*  
 21 *Choice organization pursuant to and in accordance*  
 22 *with a contract under section 1857.*

23 “(2) MEDICARE CHOICE UNRESTRICTED FEE-  
 24 FOR-SERVICE PLAN.—*The term ‘Medicare Choice un-*  
 25 *restricted fee-for-service plan’ means a Medicare*  
 26 *Choice plan that provides for coverage of benefits*

1 *without restrictions relating to utilization and with-*  
2 *out regard to whether the provider has a contract or*  
3 *other arrangement with the organization offering the*  
4 *plan for the provision of such benefits.*

5 “(3) *MSA PLAN.*—

6 “(A) *IN GENERAL.*—*The term ‘MSA plan’*  
7 *means a Medicare Choice plan that—*

8 “(i) *provides reimbursement for at*  
9 *least the items and services described in sec-*  
10 *tion 1852(a)(1) in a year but only after the*  
11 *enrollee incurs countable expenses (as speci-*  
12 *fied under the plan) equal to the amount of*  
13 *an annual deductible (described in subpara-*  
14 *graph (B));*

15 “(ii) *counts as such expenses (for pur-*  
16 *poses of such deductible) at least all*  
17 *amounts that would have been payable*  
18 *under parts A and B, and that would have*  
19 *been payable by the enrollee as deductibles,*  
20 *coinsurance, or copayments, if the enrollee*  
21 *had elected to receive benefits through the*  
22 *provisions of such parts;*

23 “(iii) *subject to clause (iv), provides,*  
24 *after such deductible is met for a year and*  
25 *for all subsequent expenses for items and*

1           *services referred to in clause (i) in the year,*  
2           *for a level of reimbursement that is not less*  
3           *than—*

4                     “(I) 100 percent of such expenses,

5                     *or*

6                     “(II) 100 percent of the amounts  
7                     *that would have been paid (without re-*  
8                     *gard to any deductibles or coinsurance)*  
9                     *under parts A and B with respect to*  
10                    *such expenses,*

11                   *whichever is less; and*

12                    “(iv) provides that the annual out-of-  
13                    *pocket expenses required to be paid under*  
14                    *the plan (other than for premiums) for cov-*  
15                    *ered benefits does not exceed the amount in*  
16                    *effect under section 220(c)(2)(A)(iii)(I) of*  
17                    *the Internal Revenue Code of 1986 for the*  
18                    *year.*

19                    “(B) DEDUCTIBLE.—*The amount of annual*  
20                    *deductible under an MSA plan shall not be less*  
21                    *than or more than the amounts in excess under*  
22                    *section 220(c)(2)(A)(i) of the Internal Revenue*  
23                    *Code of 1986 for the year.*

24                    “(c) OTHER REFERENCES TO OTHER TERMS.—

1           “(1) *MEDICARE CHOICE ELIGIBLE INDIVIDUAL.*—  
2           *The term ‘Medicare Choice eligible individual’ is de-*  
3           *fin ed in section 1851(a)(3).*

4           “(2) *MEDICARE CHOICE PAYMENT AREA.*—*The*  
5           *term ‘Medicare Choice payment area’ is defined in*  
6           *section 1853(d).*

7           “(3) *NATIONAL AVERAGE PER CAPITA GROWTH*  
8           *PERCENTAGE.*—*The ‘national average per capita*  
9           *growth percentage’ is defined in section 1853(c)(6).*

10           “(4) *MONTHLY PREMIUM; NET MONTHLY PRE-*  
11           *MIUM.*—*The terms ‘monthly premium’ and ‘net*  
12           *monthly premium’ are defined in section 1854(a)(2).*

13           “(d) *COORDINATED ACUTE AND LONG-TERM CARE*  
14           *BENEFITS UNDER A MEDICARE CHOICE PLAN.*—*Nothing*  
15           *in this part shall be construed as preventing a State from*  
16           *coordinating benefits under a medicaid plan under title*  
17           *XIX with those provided under a Medicare Choice plan in*  
18           *a manner that assures continuity of a full-range of acute*  
19           *care and long-term care services to poor elderly or disabled*  
20           *individuals eligible for benefits under this title and under*  
21           *such plan.*

22           “(e) *RESTRICTION ON ENROLLMENT FOR CERTAIN*  
23           *MEDICARE CHOICE PLANS.*—

24           “(1) *IN GENERAL.*—*In the case of a Medicare*  
25           *Choice religious fraternal benefit society plan de-*

1 *scribed in paragraph (2), notwithstanding any other*  
2 *provision of this part to the contrary and in accord-*  
3 *ance with regulations of the Secretary, the society of-*  
4 *fering the plan may restrict the enrollment of individ-*  
5 *uals under this part to individuals who are members*  
6 *of the church, convention, or group described in para-*  
7 *graph (3)(B) with which the society is affiliated.*

8 *“(2) MEDICARE CHOICE RELIGIOUS FRATERNAL*  
9 *BENEFIT SOCIETY PLAN DESCRIBED.—For purposes of*  
10 *this subsection, a Medicare Choice religious fraternal*  
11 *benefit society plan described in this paragraph is a*  
12 *Medicare Choice plan described in section*  
13 *1851(a)(2)(A) that—*

14 *“(A) is offered by a religious fraternal bene-*  
15 *fit society described in paragraph (3) only to*  
16 *members of the church, convention, or group de-*  
17 *scribed in paragraph (3)(B); and*

18 *“(B) permits all such members to enroll*  
19 *under the plan without regard to health status-*  
20 *related factors.*

21 *Nothing in this subsection shall be construed as*  
22 *waiving any plan requirements relating to financial*  
23 *solvency. In developing solvency standards under sec-*  
24 *tion 1856, the Secretary shall take into account open*

1       *contract and assessment features characteristic of fra-*  
2       *ternal insurance certificates.*

3               “(3) *RELIGIOUS FRATERNAL BENEFIT SOCIETY*  
4       *DEFINED.—For purposes of paragraph (2)(A), a ‘reli-*  
5       *gious fraternal benefit society’ described in this sec-*  
6       *tion is an organization that—*

7               “(A) *is exempt from Federal income tax-*  
8       *ation under section 501(c)(8) of the Internal*  
9       *Revenue Code of 1986;*

10              “(B) *is affiliated with, carries out the tenets*  
11       *of, and shares a religious bond with, a church or*  
12       *convention or association of churches or an af-*  
13       *filiated group of churches;*

14              “(C) *offers, in addition to a Medicare*  
15       *Choice religious fraternal benefit society plan, at*  
16       *least the same level of health coverage to individ-*  
17       *uals not entitled to benefits under this title who*  
18       *are members of such church, convention, or*  
19       *group; and*

20              “(D) *does not impose any limitation on*  
21       *membership in the society based on any health*  
22       *status-related factor.*

23              “(4) *PAYMENT ADJUSTMENT.—Under regulations*  
24       *of the Secretary, in the case of individuals enrolled*  
25       *under this part under a Medicare Choice religious*



1 *plan meets all other beneficiary protections and quality*  
2 *standards under this section.”.*

3 (b) *TRANSITION.—Section 1876 (42 U.S.C. 1395mm)*  
4 *is amended by adding at the end the following new sub-*  
5 *section:*

6 “(k)(1) *Except as provided in paragraph (2) or (3),*  
7 *the Secretary shall not enter into, renew, or continue any*  
8 *risk-sharing contract under this section with an eligible or-*  
9 *ganization for any contract year beginning on or after—*

10 “(A) *the date standards for Medicare Choice or-*  
11 *ganizations and plans are first established under sec-*  
12 *tion 1856 with respect to Medicare Choice organiza-*  
13 *tions that are insurers or health maintenance organi-*  
14 *zations, or*

15 “(B) *in the case of such an organization with*  
16 *such a contract in effect as of the date such standards*  
17 *were first established, 1 year after such date.*

18 “(2) *The Secretary shall not enter into, renew, or con-*  
19 *tinue any risk-sharing contract under this section with an*  
20 *eligible organization for any contract year beginning on or*  
21 *after January 1, 2000.*

22 “(3) *An individual who is enrolled in part B only and*  
23 *is enrolled in an eligible organization with a risk-sharing*  
24 *contract under this section on December 31, 1998, may con-*

1 *tinue enrollment in such organization in accordance with*  
2 *regulations issued by not later than July 1, 1998.*

3       “(4) *Notwithstanding subsection (a), the Secretary*  
4 *shall provide that payment amounts under risk-sharing*  
5 *contracts under this section for months in a year (beginning*  
6 *with January 1998) shall be computed—*

7               “(A) *with respect to individuals entitled to bene-*  
8 *fits under both parts A and B, by substituting pay-*  
9 *ment rates under section 1853(a) for the payment*  
10 *rates otherwise established under section 1876(a), and*

11               “(B) *with respect to individuals only entitled to*  
12 *benefits under part B, by substituting an appropriate*  
13 *proportion of such rates (reflecting the relative pro-*  
14 *portion of payments under this title attributable to*  
15 *such part) for the payment rates otherwise established*  
16 *under subsection (a).*

17 *For purposes of carrying out this paragraph for payments*  
18 *for months in 1998, the Secretary shall compute, announce,*  
19 *and apply the payment rates under section 1853(a) (not-*  
20 *withstanding any deadlines specified in such section) in as*  
21 *timely a manner as possible and may (to the extent nec-*  
22 *essary) provide for retroactive adjustment in payments*  
23 *made under this section not in accordance with such*  
24 *rates.”.*

1           (c) *ENROLLMENT TRANSITION RULE.*—*An individual*  
2 *who is enrolled on December 31, 1998, with an eligible orga-*  
3 *nization under section 1876 of the Social Security Act (42*  
4 *U.S.C. 1395mm) shall be considered to be enrolled with that*  
5 *organization on January 1, 1999, under part C of title*  
6 *XVIII of such Act if that organization has a contract under*  
7 *that part for providing services on January 1, 1999 (unless*  
8 *the individual has disenrolled effective on that date).*

9           (d) *ADVANCE DIRECTIVES.*—*Section 1866(f) (42*  
10 *U.S.C. 1395cc(f)) is amended—*

11                   (1) *in paragraph (1)—*

12                           (A) *by inserting “1855(i),” after “1833(s),”*

13                           *and*

14                           (B) *by inserting “, Medicare Choice organi-*  
15 *zation,” after “provider of services”; and*

16                   (2) *in paragraph (2)(E), by inserting “or a*  
17 *Medicare Choice organization” after “section*  
18 *1833(a)(1)(A)”.*

19           (e) *EXTENSION OF PROVIDER REQUIREMENT.*—*Sec-*  
20 *tion 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amend-*  
21 *ed—*

22                   (1) *by striking “in the case of hospitals and*  
23 *skilled nursing facilities,”;*

24                   (2) *by striking “inpatient hospital and extended*  
25 *care”;*

1           (3) by inserting “with a Medicare Choice organi-  
2           zation under part C or” after “any individual en-  
3           rolled”; and

4           (4) by striking “(in the case of hospitals) or lim-  
5           its (in the case of skilled nursing facilities)”.

6           (f) *ADDITIONAL CONFORMING CHANGES.*—

7           (1) *CONFORMING REFERENCES TO PREVIOUS*  
8           *PART C.*—Any reference in law (in effect before the  
9           date of the enactment of this Act) to part C of title  
10          *XVIII of the Social Security Act is deemed a reference*  
11          *to part D of such title (as in effect after such date).*

12          (2) *SECRETARIAL SUBMISSION OF LEGISLATIVE*  
13          *PROPOSAL.*—Not later than 90 days after the date of  
14          the enactment of this Act, the Secretary of Health and  
15          Human Services shall submit to the appropriate com-  
16          mittees of Congress a legislative proposal providing  
17          for such technical and conforming amendments in the  
18          law as are required by the provisions of this chapter.

19          (g) *IMMEDIATE EFFECTIVE DATE FOR CERTAIN RE-*  
20          *QUIREMENTS FOR DEMONSTRATIONS.*—Section 1857(e)(2)  
21          of the Social Security Act (requiring contribution to certain  
22          costs related to the enrollment process comparative mate-  
23          rials) applies to demonstrations with respect to which en-  
24          rollment is effected or coordinated under section 1851 of  
25          such Act.

1       (h) *USE OF INTERIM, FINAL REGULATIONS.*—*In order*  
 2 *to carry out the amendments made by this chapter in a*  
 3 *timely manner, the Secretary of Health and Human Serv-*  
 4 *ices may promulgate regulations that take effect on an in-*  
 5 *terim basis, after notice and pending opportunity for public*  
 6 *comment.*

7       (i) *TRANSITION RULE FOR PSO ENROLLMENT.*—*In*  
 8 *applying subsection (g)(1) of section 1876 of the Social Se-*  
 9 *curity Act (42 U.S.C. 1395mm) to a risk-sharing contract*  
 10 *entered into with an eligible organization that is a pro-*  
 11 *vider-sponsored organization (as defined in section*  
 12 *1855(e)(1) of such Act, as inserted by section 5001) for a*  
 13 *contract year beginning on or after January 1, 1998, there*  
 14 *shall be substituted for the minimum number of enrollees*  
 15 *provided under such section the minimum number of enroll-*  
 16 *ees permitted under section 1857(b)(1) of such Act (as so*  
 17 *inserted).*

18 **SEC. 5003. CONFORMING CHANGES IN MEDIGAP PROGRAM.**

19       (a) *CONFORMING AMENDMENTS TO MEDICARE CHOICE*  
 20 *CHANGES.*—

21               (1) *IN GENERAL.*—*Section 1882(d)(3)(A)(i) (42*  
 22 *U.S.C. 1395ss(d)(3)(A)(i)) is amended—*

23                       (A) *in the matter before subclause (I), by*  
 24                       *inserting “(including an individual electing a*

1 Medicare Choice plan under section 1851)” after  
2 “of this title”; and

3 (B) in subclause (II)—

4 (i) by inserting “in the case of an in-  
5 dividual not electing a Medicare Choice  
6 plan” after “(II)”, and

7 (ii) by inserting before the comma at  
8 the end the following: “or in the case of an  
9 individual electing a Medicare Choice plan,  
10 a medicare supplemental policy with knowl-  
11 edge that the policy duplicates health bene-  
12 fits to which the individual is otherwise en-  
13 titled under the Medicare Choice plan or  
14 under another medicare supplemental pol-  
15 icy”.

16 (2) CONFORMING AMENDMENTS.—Section  
17 1882(d)(3)(B)(i)(I) (42 U.S.C. 1395ss(d)(3)(B)(i)(I))  
18 is amended by inserting “(including any Medicare  
19 Choice plan)” after “health insurance policies”.

20 (3) MEDICARE CHOICE PLANS NOT TREATED AS  
21 MEDICARE SUPPLEMENTARY POLICIES.—Section  
22 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by  
23 inserting “or a Medicare Choice plan or” after “does  
24 not include”.

1       (b) *ADDITIONAL RULES RELATING TO INDIVIDUALS*  
2 *ENROLLED IN MSA PLANS.*—Section 1882 (42 U.S.C.  
3 1395ss) is further amended by adding at the end the follow-  
4 ing new subsection:

5       “(u)(1) It is unlawful for a person to sell or issue a  
6 policy described in paragraph (2) to an individual with  
7 knowledge that the individual has in effect under section  
8 1851 an election of an MSA plan.

9       “(2) A policy described in this subparagraph is a  
10 health insurance policy that provides for coverage of ex-  
11 penses that are otherwise required to be counted toward  
12 meeting the annual deductible amount provided under the  
13 MSA plan.”.

14       ***Subchapter B—Special Rules for Medicare***  
15               ***Choice Medical Savings Accounts***

16       ***SEC. 5006. MEDICARE CHOICE MSA.***

17       (a) *IN GENERAL.*—Part III of subchapter B of chapter  
18 1 of the Internal Revenue Code of 1986 (relating to amounts  
19 specifically excluded from gross income) is amended by re-  
20 designating section 138 as section 139 and by inserting  
21 after section 137 the following new section:

22       ***“SEC. 138. MEDICARE CHOICE MSA.***

23       “(a) *EXCLUSION.*—Gross income shall not include any  
24 payment to the Medicare Choice MSA of an individual by

1 *the Secretary of Health and Human Services under part*  
2 *C of title XVIII of the Social Security Act.*

3 “(b) *MEDICARE CHOICE MSA.*—*For purposes of this*  
4 *section, the term ‘Medicare Choice MSA’ means a medical*  
5 *savings account (as defined in section 220(d))—*

6 “(1) *which is designated as a Medicare Choice*  
7 *MSA,*

8 “(2) *with respect to which no contribution may*  
9 *be made other than—*

10 “(A) *a contribution made by the Secretary*  
11 *of Health and Human Services pursuant to part*  
12 *C of title XVIII of the Social Security Act, or*

13 “(B) *a trustee-to-trustee transfer described*  
14 *in subsection (c)(4),*

15 “(3) *the governing instrument of which provides*  
16 *that trustee-to-trustee transfers described in subsection*  
17 *(c)(4) may be made to and from such account, and*

18 “(4) *which is established in connection with an*  
19 *MSA plan described in section 1859(b)(3) of the So-*  
20 *cial Security Act.*

21 “(c) *SPECIAL RULES FOR DISTRIBUTIONS.*—

22 “(1) *DISTRIBUTIONS FOR QUALIFIED MEDICAL*  
23 *EXPENSES.*—*In applying section 220 to a Medicare*  
24 *Choice MSA—*

1           “(A) *qualified medical expenses shall not*  
2           *include amounts paid for medical care for any*  
3           *individual other than the account holder, and*

4           “(B) *section 220(d)(2)(C) shall not apply.*

5           “(2) *PENALTY FOR DISTRIBUTIONS FROM MEDI-*  
6           *CARE CHOICE MSA NOT USED FOR QUALIFIED MEDI-*  
7           *CAL EXPENSES IF MINIMUM BALANCE NOT MAIN-*  
8           *TAINED.—*

9           “(A) *IN GENERAL.—The tax imposed by*  
10           *this chapter for any taxable year in which there*  
11           *is a payment or distribution from a Medicare*  
12           *Choice MSA which is not used exclusively to pay*  
13           *the qualified medical expenses of the account*  
14           *holder shall be increased by 50 percent of the ex-*  
15           *cess (if any) of—*

16           “(i) *the amount of such payment or*  
17           *distribution, over*

18           “(ii) *the excess (if any) of—*

19           “(I) *the fair market value of the*  
20           *assets in such MSA as of the close of*  
21           *the calendar year preceding the cal-*  
22           *endar year in which the taxable year*  
23           *begins, over*

24           “(II) *an amount equal to 60 per-*  
25           *cent of the deductible under the Medi-*

1           *care Choice MSA plan covering the ac-*  
2           *count holder as of January 1 of the*  
3           *calendar year in which the taxable*  
4           *year begins.*

5           *Section 220(f)(2) shall not apply to any pay-*  
6           *ment or distribution from a Medicare Choice*  
7           *MSA.*

8           “(B) *EXCEPTIONS.*—*Subparagraph (A)*  
9           *shall not apply if the payment or distribution is*  
10          *made on or after the date the account holder—*

11            “(i) *becomes disabled within the mean-*  
12            *ing of section 72(m)(7), or*

13            “(ii) *dies.*

14          “(C) *SPECIAL RULES.*—*For purposes of sub-*  
15          *paragraph (A)—*

16            “(i) *all Medicare Choice MSAs of the*  
17            *account holder shall be treated as 1 account,*

18            “(ii) *all payments and distributions*  
19            *not used exclusively to pay the qualified*  
20            *medical expenses of the account holder dur-*  
21            *ing any taxable year shall be treated as 1*  
22            *distribution, and*

23            “(iii) *any distribution of property*  
24            *shall be taken into account at its fair mar-*  
25            *ket value on the date of the distribution.*

1           “(3) *WITHDRAWAL OF ERRONEOUS CONTRIBU-*  
2           *TIONS.—Section 220(f)(2) and paragraph (2) of this*  
3           *subsection shall not apply to any payment or dis-*  
4           *tribution from a Medicare Choice MSA to the Sec-*  
5           *retary of Health and Human Services of an erroneous*  
6           *contribution to such MSA and of the net income at-*  
7           *tributable to such contribution.*

8           “(4) *TRUSTEE-TO-TRUSTEE TRANSFERS.—Sec-*  
9           *tion 220(f)(2) and paragraph (2) of this subsection*  
10          *shall not apply to any trustee-to-trustee transfer from*  
11          *a Medicare Choice MSA of an account holder to an-*  
12          *other Medicare Choice MSA of such account holder.*

13          “(d) *SPECIAL RULES FOR TREATMENT OF ACCOUNT*  
14          *AFTER DEATH OF ACCOUNT HOLDER.—In applying sec-*  
15          *tion 220(f)(8)(A) to an account which was a Medicare*  
16          *Choice MSA of a decedent, the rules of section 220(f) shall*  
17          *apply in lieu of the rules of subsection (c) of this section*  
18          *with respect to the spouse as the account holder of such Med-*  
19          *icare Choice MSA.*

20          “(e) *REPORTS.—In the case of a Medicare Choice*  
21          *MSA, the report under section 220(h)—*

22                  “(1) *shall include the fair market value of the as-*  
23                  *sets in such Medicare Choice MSA as of the close of*  
24                  *each calendar year, and*

25                  “(2) *shall be furnished to the account holder—*

1           “(A) not later than January 31 of the cal-  
2           endar year following the calendar year to which  
3           such reports relate, and

4           “(B) in such manner as the Secretary pre-  
5           scribes in such regulations.

6           “(f) *COORDINATION WITH LIMITATION ON NUMBER OF*  
7           *TAXPAYERS HAVING MEDICAL SAVINGS ACCOUNTS.*—Sub-  
8           section (i) of section 220 shall not apply to an individual  
9           with respect to a Medicare Choice MSA, and Medicare  
10          Choice MSA’s shall not be taken into account in determin-  
11          ing whether the numerical limitations under section 220(j)  
12          are exceeded.”.

13          (b) *TECHNICAL AMENDMENTS.*—

14                 (1) The last sentence of section 4973(d) of such  
15                 Code is amended by inserting “or section 138(c)(3)”  
16                 after “section 220(f)(3)”.

17                 (2) Subsection (b) of section 220 of such Code is  
18                 amended by adding at the end the following new  
19                 paragraph:

20                         “(7) *MEDICARE ELIGIBLE INDIVIDUALS.*—The  
21                         limitation under this subsection for any month with  
22                         respect to an individual shall be zero for the first  
23                         month such individual is entitled to benefits under  
24                         title XVIII of the Social Security Act and for each  
25                         month thereafter.”.

1           (3) *The table of sections for part III of sub-*  
 2 *chapter B of chapter 1 of such Code is amended by*  
 3 *striking the last item and inserting the following:*

*“Sec. 138. Medicare Choice MSA.*  
*“Sec. 139. Cross references to other Acts.”.*

4           (c) *EFFECTIVE DATE.—The amendments made by this*  
 5 *section shall apply to taxable years beginning after Decem-*  
 6 *ber 31, 1998.*

7           **CHAPTER 2—INTEGRATED LONG-TERM**  
 8                           **CARE PROGRAMS**

9           **Subchapter A—Programs of All-Inclusive**  
 10                           **Care for the Elderly (PACE)**

11 **SEC. 5011. COVERAGE OF PACE UNDER THE MEDICARE PRO-**  
 12 **GRAM.**

13           *Title XVIII of the Social Security Act (42 U.S.C. 1395*  
 14 *et seq.) is amended by adding at the end the following new*  
 15 *section:*

16 *“PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER, PRO-*  
 17 *GRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY*  
 18 *(PACE)*

19           *“SEC. 1894. (a) RECEIPT OF BENEFITS THROUGH EN-*  
 20 *ROLLMENT IN PACE PROGRAM; DEFINITIONS FOR PACE*  
 21 *PROGRAM RELATED TERMS.—*

22                           *“(1) BENEFITS THROUGH ENROLLMENT IN A*  
 23 *PACE PROGRAM.—In accordance with this section, in*  
 24 *the case of an individual who is entitled to benefits*

1        *under part A or enrolled under part B and who is*  
2        *a PACE program eligible individual (as defined in*  
3        *paragraph (5)) with respect to a PACE program of-*  
4        *fered by a PACE provider under a PACE program*  
5        *agreement—*

6                *“(A) the individual may enroll in the pro-*  
7                *gram under this section; and*

8                *“(B) so long as the individual is so enrolled*  
9                *and in accordance with regulations—*

10                *“(i) the individual shall receive bene-*  
11                *fits under this title solely through such pro-*  
12                *gram; and*

13                *“(ii) the PACE provider is entitled to*  
14                *payment under and in accordance with this*  
15                *section and such agreement for provision of*  
16                *such benefits.*

17                *“(2) PACE PROGRAM DEFINED.—For purposes*  
18                *of this section and section 1932, the term ‘PACE pro-*  
19                *gram’ means a program of all-inclusive care for the*  
20                *elderly that meets the following requirements:*

21                *“(A) OPERATION.—The entity operating the*  
22                *program is a PACE provider (as defined in*  
23                *paragraph (3)).*

24                *“(B) COMPREHENSIVE BENEFITS.—The*  
25                *program provides comprehensive health care*

1           *services to PACE program eligible individuals in*  
2           *accordance with the PACE program agreement*  
3           *and regulations under this section.*

4           “(C) *TRANSITION.*—*In the case of an indi-*  
5           *vidual who is enrolled under the program under*  
6           *this section and whose enrollment ceases for any*  
7           *reason (including that the individual no longer*  
8           *qualifies as a PACE program eligible individual,*  
9           *the termination of a PACE program agreement,*  
10          *or otherwise), the program provides assistance to*  
11          *the individual in obtaining necessary transi-*  
12          *tional care through appropriate referrals and*  
13          *making the individual’s medical records avail-*  
14          *able to new providers.*

15          “(3) *PACE PROVIDER DEFINED.*—

16          “(A) *IN GENERAL.*—*For purposes of this*  
17          *section, the term ‘PACE provider’ means an en-*  
18          *tity that—*

19                  “(i) *subject to subparagraph (B), is (or*  
20                  *is a distinct part of) a public entity or a*  
21                  *private, nonprofit entity organized for char-*  
22                  *itable purposes under section 501(c)(3) of*  
23                  *the Internal Revenue Code of 1986; and*

1           “(ii) has entered into a PACE pro-  
2           gram agreement with respect to its oper-  
3           ation of a PACE program.

4           “(B) TREATMENT OF PRIVATE, FOR-PROFIT  
5           PROVIDERS.—Clause (i) of subparagraph (A)  
6           shall not apply—

7           “(i) to entities subject to a demonstra-  
8           tion project waiver under subsection (h);  
9           and

10           “(ii) after the date the report under  
11           section 5013(b) of the Balanced Budget Act  
12           of 1997 is submitted, unless the Secretary  
13           determines that any of the findings de-  
14           scribed in subparagraph (A), (B), (C), or  
15           (D) of paragraph (2) of such section are  
16           true.

17           “(4) PACE PROGRAM AGREEMENT DEFINED.—  
18           For purposes of this section, the term ‘PACE program  
19           agreement’ means, with respect to a PACE provider,  
20           an agreement, consistent with this section, section  
21           1932 (if applicable), and regulations promulgated to  
22           carry out such sections, between the PACE provider  
23           and the Secretary, or an agreement between the  
24           PACE provider and a State administering agency for

1       *the operation of a PACE program by the provider*  
2       *under such sections.*

3               “(5) *PACE PROGRAM ELIGIBLE INDIVIDUAL DE-*  
4       *FINED.—For purposes of this section, the term ‘PACE*  
5       *program eligible individual’ means, with respect to a*  
6       *PACE program, an individual who—*

7                       “(A) *is 55 years of age or older;*

8                       “(B) *subject to subsection (c)(4), is deter-*  
9       *mined under subsection (c) to require the level of*  
10       *care required under the State medicaid plan for*  
11       *coverage of nursing facility services;*

12                      “(C) *resides in the service area of the PACE*  
13       *program; and*

14                      “(D) *meets such other eligibility conditions*  
15       *as may be imposed under the PACE program*  
16       *agreement for the program under subsection*  
17       *(e)(2)(A)(ii).*

18               “(6) *PACE PROTOCOL.—For purposes of this*  
19       *section, the term ‘PACE protocol’ means the Protocol*  
20       *for the Program of All-inclusive Care for the Elderly*  
21       *(PACE), as published by On Lok, Inc., as of April 14,*  
22       *1995, or any successor protocol that may be agreed*  
23       *upon between the Secretary and On Lok, Inc.*

24               “(7) *PACE DEMONSTRATION WAIVER PROGRAM*  
25       *DEFINED.—For purposes of this section, the term*

1       *‘PACE demonstration waiver program’ means a dem-*  
2       *onstration program under either of the following sec-*  
3       *tions (as in effect before the date of their repeal):*

4               “(A) *Section 603(c) of the Social Security*  
5               *Amendments of 1983 (Public Law 98–21), as ex-*  
6               *tended by section 9220 of the Consolidated Om-*  
7               *nibus Budget Reconciliation Act of 1985 (Public*  
8               *Law 99–272).*

9               “(B) *Section 9412(b) of the Omnibus Budg-*  
10              *et Reconciliation Act of 1986 (Public Law 99–*  
11              *509).*

12              “(8) *STATE ADMINISTERING AGENCY DEFINED.—*  
13              *For purposes of this section, the term ‘State admin-*  
14              *istering agency’ means, with respect to the operation*  
15              *of a PACE program in a State, the agency of that*  
16              *State (which may be the single agency responsible for*  
17              *administration of the State plan under title XIX in*  
18              *the State) responsible for administering PACE pro-*  
19              *gram agreements under this section and section 1932*  
20              *in the State.*

21              “(9) *TRIAL PERIOD DEFINED.—*

22              “(A) *IN GENERAL.—For purposes of this*  
23              *section, the term ‘trial period’ means, with re-*  
24              *spect to a PACE program operated by a PACE*  
25              *provider under a PACE program agreement, the*

1           *first 3 contract years under such agreement with*  
2           *respect to such program.*

3           “(B) *TREATMENT OF ENTITIES PREVIOUSLY*  
4           *OPERATING PACE DEMONSTRATION WAIVER PRO-*  
5           *GRAMS.—Each contract year (including a year*  
6           *occurring before the effective date of this section)*  
7           *during which an entity has operated a PACE*  
8           *demonstration waiver program shall be counted*  
9           *under subparagraph (A) as a contract year dur-*  
10           *ing which the entity operated a PACE program*  
11           *as a PACE provider under a PACE program*  
12           *agreement.*

13           “(10) *REGULATIONS.—For purposes of this sec-*  
14           *tion, the term ‘regulations’ refers to interim final or*  
15           *final regulations promulgated under subsection (f) to*  
16           *carry out this section and section 1932.*

17           “(b) *SCOPE OF BENEFITS; BENEFICIARY SAFE-*  
18           *GUARDS.—*

19           “(1) *IN GENERAL.—Under a PACE program*  
20           *agreement, a PACE provider shall—*

21           “(A) *provide to PACE program eligible in-*  
22           *dividuals, regardless of source of payment and*  
23           *directly or under contracts with other entities, at*  
24           *a minimum—*

1           “(i) all items and services covered  
2           under this title (for individuals enrolled  
3           under this section) and all items and serv-  
4           ices covered under title XIX, but without  
5           any limitation or condition as to amount,  
6           duration, or scope and without application  
7           of deductibles, copayments, coinsurance, or  
8           other cost-sharing that would otherwise  
9           apply under this title or such title, respec-  
10          tively; and

11           “(ii) all additional items and services  
12          specified in regulations, based upon those  
13          required under the PACE protocol;

14          “(B) provide such enrollees access to nec-  
15          essary covered items and services 24 hours per  
16          day, every day of the year;

17          “(C) provide services to such enrollees  
18          through a comprehensive, multidisciplinary  
19          health and social services delivery system which  
20          integrates acute and long-term care services pur-  
21          suant to regulations; and

22          “(D) specify the covered items and services  
23          that will not be provided directly by the entity,  
24          and to arrange for delivery of those items and

1           *services through contracts meeting the require-*  
2           *ments of regulations.*

3           “(2) *QUALITY ASSURANCE; PATIENT SAFE-*  
4           *GUARDS.—The PACE program agreement shall re-*  
5           *quire the PACE provider to have in effect at a mini-*  
6           *mum—*

7                   “(A) *a written plan of quality assurance*  
8                   *and improvement, and procedures implementing*  
9                   *such plan, in accordance with regulations; and*

10                   “(B) *written safeguards of the rights of en-*  
11                   *rolled participants (including a patient bill of*  
12                   *rights and procedures for grievances and ap-*  
13                   *peals) in accordance with regulations and with*  
14                   *other requirements of this title and Federal and*  
15                   *State law that are designed for the protection of*  
16                   *patients.*

17           “(c) *ELIGIBILITY DETERMINATIONS.—*

18                   “(1) *IN GENERAL.—The determination of wheth-*  
19                   *er an individual is a PACE program eligible individ-*  
20                   *ual—*

21                   “(A) *shall be made under and in accordance*  
22                   *with the PACE program agreement; and*

23                   “(B) *who is entitled to medical assistance*  
24                   *under title XIX, shall be made (or who is not so*

1           entitled, may be made) by the State administer-  
2           ing agency.

3           “(2) *CONDITION.*—An individual is not a PACE  
4           program eligible individual (with respect to payment  
5           under this section) unless the individual’s health sta-  
6           tus has been determined by the Secretary or the State  
7           administering agency, in accordance with regulations,  
8           to be comparable to the health status of individuals  
9           who have participated in the PACE demonstration  
10          waiver programs. Such determination shall be based  
11          upon information on health status and related indica-  
12          tors (such as medical diagnoses and measures of ac-  
13          tivities of daily living, instrumental activities of  
14          daily living, and cognitive impairment) that are part  
15          of a uniform minimum data set collected by PACE  
16          providers on potential eligible individuals.

17          “(3) *ANNUAL ELIGIBILITY RECERTIFICATIONS.*—

18                 “(A) *IN GENERAL.*—Subject to subpara-  
19                 graph (B), the determination described in sub-  
20                 section (a)(5)(B) for an individual shall be re-  
21                 evaluated at least annually.

22                 “(B) *EXCEPTION.*—The requirement of an-  
23                 nual reevaluation under subparagraph (A) may  
24                 be waived during a period in accordance with  
25                 regulations in those cases where the State admin-

1            *istering agency determines that there is no rea-*  
2            *sonable expectation of improvement or signifi-*  
3            *cant change in an individual's condition during*  
4            *the period because of the advanced age, severity*  
5            *of the advanced age, severity of chronic condi-*  
6            *tion, or degree of impairment of functional ca-*  
7            *capacity of the individual involved.*

8            *“(4) CONTINUATION OF ELIGIBILITY.—An indi-*  
9            *vidual who is a PACE program eligible individual*  
10           *may be deemed to continue to be such an individual*  
11           *notwithstanding a determination that the individual*  
12           *no longer meets the requirement of subsection*  
13           *(a)(5)(B) if, in accordance with regulations, in the*  
14           *absence of continued coverage under a PACE program*  
15           *the individual reasonably would be expected to meet*  
16           *such requirement within the succeeding 6-month pe-*  
17           *riod.*

18           *“(5) ENROLLMENT; DISENROLLMENT.—The en-*  
19           *rollment and disenrollment of PACE program eligible*  
20           *individuals in a PACE program shall be pursuant to*  
21           *regulations and the PACE program agreement and*  
22           *shall permit enrollees to voluntarily disenroll without*  
23           *cause at any time. Such regulations and agreement*  
24           *shall provide that the PACE program may not*  
25           *disenroll a PACE program eligible individual on the*

1 *ground that the individual has engaged in noncompli-*  
2 *ant behavior if such behavior is related to a mental*  
3 *or physical condition of the individual. For purposes*  
4 *of the preceding sentence, the term ‘noncompliant be-*  
5 *havior’ includes repeated noncompliance with medical*  
6 *advice and repeated failure to appear for appoint-*  
7 *ments.*

8 *“(d) PAYMENTS TO PACE PROVIDERS ON A*  
9 *CAPITATED BASIS.—*

10 *“(1) IN GENERAL.—In the case of a PACE pro-*  
11 *vider with a PACE program agreement under this*  
12 *section, except as provided in this subsection or by*  
13 *regulations, the Secretary shall make prospective*  
14 *monthly payments of a capitation amount for each*  
15 *PACE program eligible individual enrolled under the*  
16 *agreement under this section in the same manner and*  
17 *from the same sources as payments are made to an*  
18 *eligible organization under a risk-sharing contract*  
19 *under section 1876. Such payments shall be subject to*  
20 *adjustment in the manner described in section*  
21 *1876(a)(1)(E).*

22 *“(2) CAPITATION AMOUNT.—The capitation*  
23 *amount to be applied under this subsection for a pro-*  
24 *vider for a contract year shall be an amount specified*  
25 *in the PACE program agreement for the year. Such*

1        *amount shall be based upon payment rates established*  
2        *under section 1876 for risk-sharing contracts and*  
3        *shall be adjusted to take into account the comparative*  
4        *frailty of PACE enrollees and such other factors as*  
5        *the Secretary determines to be appropriate. Such*  
6        *amount under such an agreement shall be computed*  
7        *in a manner so that the total payment level for all*  
8        *PACE program eligible individuals enrolled under a*  
9        *program is less than the projected payment under this*  
10       *title for a comparable population not enrolled under*  
11       *a PACE program.*

12       “(e) *PACE PROGRAM AGREEMENT.*—

13                “(1) *REQUIREMENT.*—

14                        “(A) *IN GENERAL.*—*The Secretary, in close*  
15                        *cooperation with the State administering agency,*  
16                        *shall establish procedures for entering into, ex-*  
17                        *tending, and terminating PACE program agree-*  
18                        *ments for the operation of PACE programs by*  
19                        *entities that meet the requirements for a PACE*  
20                        *provider under this section, section 1932, and*  
21                        *regulations.*

22                        “(B) *NUMERICAL LIMITATION.*—

23                                “(i) *IN GENERAL.*—*The Secretary shall*  
24                                *not permit the number of PACE providers*  
25                                *with which agreements are in effect under*

1            *this section or under section 9412(b) of the*  
2            *Omnibus Budget Reconciliation Act of 1986*  
3            *to exceed—*

4                    *“(I) 40 as of the date of the enact-*  
5                    *ment of this section; or*

6                    *“(II) as of each succeeding anni-*  
7                    *versary of such date, the numerical*  
8                    *limitation under this subparagraph for*  
9                    *the preceding year plus 20.*

10            *Subclause (II) shall apply without regard to*  
11            *the actual number of agreements in effect as*  
12            *of a previous anniversary date.*

13                    *“(i) TREATMENT OF CERTAIN PRI-*  
14                    *VATE, FOR-PROFIT PROVIDERS.—The nu-*  
15                    *merical limitation in clause (i) shall not*  
16                    *apply to a PACE provider that—*

17                    *“(I) is operating under a dem-*  
18                    *onstration project waiver under sub-*  
19                    *section (h); or*

20                    *“(II) was operating under such a*  
21                    *waiver and subsequently qualifies for*  
22                    *PACE provider status pursuant to sub-*  
23                    *section (a)(3)(B)(ii).*

24                    *“(2) SERVICE AREA AND ELIGIBILITY.—*

1           “(A) *IN GENERAL.*—A *PACE* program  
2 agreement for a *PACE* program—

3           “(i) shall designate the service area of  
4 the program;

5           “(ii) may provide additional require-  
6 ments for individuals to qualify as *PACE*  
7 program eligible individuals with respect to  
8 the program;

9           “(iii) shall be effective for a contract  
10 year, but may be extended for additional  
11 contract years in the absence of a notice by  
12 a party to terminate and is subject to ter-  
13 mination by the Secretary and the State  
14 administering agency at any time for cause  
15 (as provided under the agreement);

16           “(iv) shall require a *PACE* provider to  
17 meet all applicable State and local laws  
18 and requirements; and

19           “(v) shall have such additional terms  
20 and conditions as the parties may agree to,  
21 provided that such terms and conditions are  
22 consistent with this section and regulations.

23           “(B) *SERVICE AREA OVERLAP.*—In des-  
24 ignating a service area under a *PACE* program  
25 agreement under subparagraph (A)(i), the Sec-

1           retary (in consultation with the State admin-  
2           istering agency) may exclude from designation  
3           an area that is already covered under another  
4           PACE program agreement, in order to avoid un-  
5           necessary duplication of services and avoid im-  
6           pairing the financial and service viability of an  
7           existing program.

8           “(3) DATA COLLECTION; DEVELOPMENT OF OUT-  
9           COME MEASURES.—

10           “(A) DATA COLLECTION.—

11           “(i) IN GENERAL.—Under a PACE  
12           program agreement, the PACE provider  
13           shall—

14           “(I) collect data;

15           “(II) maintain, and afford the  
16           Secretary and the State administering  
17           agency access to, the records relating to  
18           the program, including pertinent fi-  
19           nancial, medical, and personnel  
20           records; and

21           “(III) make to the Secretary and  
22           the State administering agency reports  
23           that the Secretary finds (in consulta-  
24           tion with State administering agen-  
25           cies) necessary to monitor the oper-

1                    *ation, cost, and effectiveness of the*  
2                    *PACE program under this Act.*

3                    “(ii) *REQUIREMENTS DURING TRIAL*  
4                    *PERIOD.—During the first 3 years of oper-*  
5                    *ation of a PACE program (either under this*  
6                    *section or under a PACE demonstration*  
7                    *waiver program), the PACE provider shall*  
8                    *provide such additional data as the Sec-*  
9                    *retary specifies in regulations in order to*  
10                   *perform the oversight required under para-*  
11                   *graph (4)(A).*

12                   “(B) *DEVELOPMENT OF OUTCOME MEAS-*  
13                   *URES.—Under a PACE program agreement, the*  
14                   *PACE provider, the Secretary, and the State ad-*  
15                   *ministering agency shall jointly cooperate in the*  
16                   *development and implementation of health status*  
17                   *and quality of life outcome measures with respect*  
18                   *to PACE program eligible individuals.*

19                   “(4) *OVERSIGHT.—*

20                   “(A) *ANNUAL, CLOSE OVERSIGHT DURING*  
21                   *TRIAL PERIOD.—During the trial period (as de-*  
22                   *finied in subsection (a)(9)) with respect to a*  
23                   *PACE program operated by a PACE provider,*  
24                   *the Secretary (in cooperation with the State ad-*  
25                   *ministering agency) shall conduct a comprehen-*

1           *sive annual review of the operation of the PACE*  
2           *program by the provider in order to assure com-*  
3           *pliance with the requirements of this section and*  
4           *regulations. Such a review shall include—*

5                     *“(i) an on-site visit to the program*  
6                     *site;*

7                     *“(ii) comprehensive assessment of a*  
8                     *provider’s fiscal soundness;*

9                     *“(iii) comprehensive assessment of the*  
10                    *provider’s capacity to provide all PACE*  
11                    *services to all enrolled participants;*

12                    *“(iv) detailed analysis of the entity’s*  
13                    *substantial compliance with all significant*  
14                    *requirements of this section and regulations;*  
15                    *and*

16                    *“(v) any other elements the Secretary*  
17                    *or State agency considers necessary or ap-*  
18                    *propriate.*

19                    *“(B) CONTINUING OVERSIGHT.—After the*  
20                    *trial period, the Secretary (in cooperation with*  
21                    *the State administering agency) shall continue*  
22                    *to conduct such review of the operation of PACE*  
23                    *providers and PACE programs as may be appro-*  
24                    *priate, taking into account the performance level*  
25                    *of a provider and compliance of a provider with*

1           *all significant requirements of this section and*  
2           *regulations.*

3           “(C) *DISCLOSURE.*—*The results of reviews*  
4           *under this paragraph shall be reported promptly*  
5           *to the PACE provider, along with any rec-*  
6           *ommendations for changes to the provider’s pro-*  
7           *gram, and shall be made available to the public*  
8           *upon request.*

9           “(5) *TERMINATION OF PACE PROVIDER AGREE-*  
10          *MENTS.*—

11           “(A) *IN GENERAL.*—*Under regulations—*

12                    “(i) *the Secretary or a State admin-*  
13                    *istering agency may terminate a PACE*  
14                    *program agreement for cause; and*

15                    “(ii) *a PACE provider may terminate*  
16                    *an agreement after appropriate notice to the*  
17                    *Secretary, the State agency, and enrollees.*

18           “(B) *CAUSES FOR TERMINATION.*—*In ac-*  
19           *cordance with regulations establishing procedures*  
20           *for termination of PACE program agreements,*  
21           *the Secretary or a State administering agency*  
22           *may terminate a PACE program agreement with*  
23           *a PACE provider for, among other reasons, the*  
24           *fact that—*

1           “(i) the Secretary or State administer-  
2           ing agency determines that—

3                   “(I) there are significant defi-  
4                   ciencies in the quality of care provided  
5                   to enrolled participants; or

6                   “(II) the provider has failed to  
7                   comply substantially with conditions  
8                   for a program or provider under this  
9                   section or section 1932; and

10                   “(ii) the entity has failed to develop  
11                   and successfully initiate, within 30 days of  
12                   the receipt of written notice of such a deter-  
13                   mination, a plan to correct the deficiencies,  
14                   or has failed to continue implementation of  
15                   such a plan.

16                   “(C) *TERMINATION AND TRANSITION PROCEDURE*.—  
17                   An entity whose PACE provider agree-  
18                   ment is terminated under this paragraph shall  
19                   implement the transition procedures required  
20                   under subsection (a)(2)(C).

21                   “(6) *SECRETARY’S OVERSIGHT; ENFORCEMENT*  
22                   *AUTHORITY*.—

23                   “(A) *IN GENERAL*.—Under regulations, if  
24                   the Secretary determines (after consultation with  
25                   the State administering agency) that a PACE

1 provider is failing substantially to comply with  
2 the requirements of this section and regulations,  
3 the Secretary (and the State administering agen-  
4 cy) may take any or all of the following actions:

5 “(i) Condition the continuation of the  
6 PACE program agreement upon timely exe-  
7 cution of a corrective action plan.

8 “(ii) Withhold some or all further pay-  
9 ments under the PACE program agreement  
10 under this section or section 1932 with re-  
11 spect to PACE program services furnished  
12 by such provider until the deficiencies have  
13 been corrected.

14 “(iii) Terminate such agreement.

15 “(B) APPLICATION OF INTERMEDIATE SAN-  
16 TIONS.—Under regulations, the Secretary may  
17 provide for the application against a PACE pro-  
18 vider of remedies described in section  
19 1876(i)(6)(B) or 1903(m)(5)(B) in the case of  
20 violations by the provider of the type described  
21 in section 1876(i)(6)(A) or 1903(m)(5)(A), re-  
22 spectively (in relation to agreements, enrollees,  
23 and requirements under this section or section  
24 1932, respectively).

1           “(7) *PROCEDURES FOR TERMINATION OR IMPOSI-*  
2           *TION OF SANCTIONS.*—*Under regulations, the provi-*  
3           *sions of section 1876(i)(9) shall apply to termination*  
4           *and sanctions respecting a PACE program agreement*  
5           *and PACE provider under this subsection in the same*  
6           *manner as they apply to a termination and sanctions*  
7           *with respect to a contract and an eligible organiza-*  
8           *tion under section 1876.*

9           “(8) *TIMELY CONSIDERATION OF APPLICATIONS*  
10           *FOR PACE PROGRAM PROVIDER STATUS.*—*In consider-*  
11           *ing an application for PACE provider program sta-*  
12           *tus, the application shall be deemed approved unless*  
13           *the Secretary, within 90 days after the date of the*  
14           *submission of the application to the Secretary, either*  
15           *denies such request in writing or informs the appli-*  
16           *cant in writing with respect to any additional infor-*  
17           *mation that is needed in order to make a final deter-*  
18           *mination with respect to the application. After the*  
19           *date the Secretary receives such additional informa-*  
20           *tion, the application shall be deemed approved unless*  
21           *the Secretary, within 90 days of such date, denies*  
22           *such request.*

23           “(f) *REGULATIONS.*—

1           “(1) *IN GENERAL.*—*The Secretary shall issue in-*  
2           *terim final or final regulations to carry out this sec-*  
3           *tion and section 1932.*

4           “(2) *USE OF PACE PROTOCOL.*—

5           “(A) *IN GENERAL.*—*In issuing such regula-*  
6           *tions, the Secretary shall, to the extent consistent*  
7           *with the provisions of this section, incorporate*  
8           *the requirements applied to PACE demonstra-*  
9           *tion waiver programs under the PACE protocol.*

10          “(B) *FLEXIBILITY.*—*In order to provide for*  
11          *reasonable flexibility in adapting the PACE*  
12          *service delivery model to the needs of particular*  
13          *organizations (such as those in rural areas or*  
14          *those that may determine it appropriate to use*  
15          *nonstaff physicians according to State licensing*  
16          *law requirements) under this section and section*  
17          *1932, the Secretary (in close consultation with*  
18          *State administering agencies) may modify or*  
19          *waive provisions of the PACE protocol so long as*  
20          *any such modification or waiver is not inconsis-*  
21          *tent with and would not impair the essential ele-*  
22          *ments, objectives, and requirements of this sec-*  
23          *tion, but may not modify or waive any of the*  
24          *following provisions:*

1           “(i) *The focus on frail elderly qualify-*  
2           *ing individuals who require the level of care*  
3           *provided in a nursing facility.*

4           “(ii) *The delivery of comprehensive, in-*  
5           *tegrated acute and long-term care services.*

6           “(iii) *The interdisciplinary team ap-*  
7           *proach to care management and service de-*  
8           *livery.*

9           “(iv) *Capitated, integrated financing*  
10           *that allows the provider to pool payments*  
11           *received from public and private programs*  
12           *and individuals.*

13           “(v) *The assumption by the provider of*  
14           *full financial risk.*

15           “(3) *APPLICATION OF CERTAIN ADDITIONAL BEN-*  
16           *EFICIARY AND PROGRAM PROTECTIONS.—*

17           “(A) *IN GENERAL.—In issuing such regula-*  
18           *tions and subject to subparagraph (B), the Sec-*  
19           *retary may apply with respect to PACE pro-*  
20           *grams, providers, and agreements such require-*  
21           *ments of sections 1876 and 1903(m) relating to*  
22           *protection of beneficiaries and program integrity*  
23           *as would apply to eligible organizations under*  
24           *risk-sharing contracts under section 1876 and to*

1           *health maintenance organizations under prepaid*  
2           *capitation agreements under section 1903(m).*

3           “(B) *CONSIDERATIONS.—In issuing such*  
4           *regulations, the Secretary shall—*

5                   “(i) *take into account the differences*  
6                   *between populations served and benefits*  
7                   *provided under this section and under sec-*  
8                   *tions 1876 and 1903(m);*

9                   “(ii) *not include any requirement that*  
10                  *conflicts with carrying out PACE programs*  
11                  *under this section; and*

12                  “(iii) *not include any requirement re-*  
13                  *stricting the proportion of enrollees who are*  
14                  *eligible for benefits under this title or title*  
15                  *XIX.*

16           “(g) *WAIVERS OF REQUIREMENTS.—With respect to*  
17           *carrying out a PACE program under this section, the fol-*  
18           *lowing requirements of this title (and regulations relating*  
19           *to such requirements) are waived and shall not apply:*

20                   “(1) *Section 1812, insofar as it limits coverage*  
21                   *of institutional services.*

22                   “(2) *Sections 1813, 1814, 1833, and 1886, inso-*  
23                   *far as such sections relate to rules for payment for*  
24                   *benefits.*

1           “(3) Sections 1814(a)(2)(B), 1814(a)(2)(C), and  
2           1835(a)(2)(A), insofar as they limit coverage of ex-  
3           tended care services or home health services.

4           “(4) Section 1861(i), insofar as it imposes a 3-  
5           day prior hospitalization requirement for coverage of  
6           extended care services.

7           “(5) Paragraphs (1) and (9) of section 1862(a),  
8           insofar as they may prevent payment for PACE pro-  
9           gram services to individuals enrolled under PACE  
10          programs.

11          “(h) DEMONSTRATION PROJECT FOR FOR-PROFIT EN-  
12          TITIES.—

13                 “(1) IN GENERAL.—In order to demonstrate the  
14                 operation of a PACE program by a private, for-profit  
15                 entity, the Secretary (in close consultation with State  
16                 administering agencies) shall grant waivers from the  
17                 requirement under subsection (a)(3) that a PACE  
18                 provider may not be a for-profit, private entity.

19                 “(2) SIMILAR TERMS AND CONDITIONS.—

20                         “(A) IN GENERAL.—Except as provided  
21                         under subparagraph (B), and paragraph (1), the  
22                         terms and conditions for operation of a PACE  
23                         program by a provider under this subsection  
24                         shall be the same as those for PACE providers  
25                         that are nonprofit, private organizations.

1                   “(B) *NUMERICAL LIMITATION.*—*The number*  
2                   *of programs for which waivers are granted under*  
3                   *this subsection shall not exceed 10. Programs*  
4                   *with waivers granted under this subsection shall*  
5                   *not be counted against the numerical limitation*  
6                   *specified in subsection (e)(1)(B).*

7                   “(i) *MISCELLANEOUS PROVISIONS.*—*Nothing in this*  
8                   *section or section 1932 shall be construed as preventing a*  
9                   *PACE provider from entering into contracts with other gov-*  
10                   *ernmental or nongovernmental payers for the care of PACE*  
11                   *program eligible individuals who are not eligible for bene-*  
12                   *fits under part A, or enrolled under part B, or eligible for*  
13                   *medical assistance under title XIX.”.*

14                   **SEC. 5012. EFFECTIVE DATE; TRANSITION.**

15                   (a) *TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE*  
16                   *DATE.*—*The Secretary of Health and Human Services shall*  
17                   *promulgate regulations to carry out this subtitle in a timely*  
18                   *manner. Such regulations shall be designed so that entities*  
19                   *may establish and operate PACE programs under sections*  
20                   *1894 and 1932 of the Social Security Act (as added by sec-*  
21                   *tions 5011 and 5751 of this Act) for periods beginning not*  
22                   *later than 1 year after the date of the enactment of this*  
23                   *Act.*

24                   (b) *EXPANSION AND TRANSITION FOR PACE DEM-*  
25                   *ONSTRATION PROJECT WAIVERS.*—

1           (1) *EXPANSION IN CURRENT NUMBER OF DEM-*  
2           *ONSTRATION PROJECTS.*—Section 9412(b) of the *Om-*  
3           *nibus Budget Reconciliation Act of 1986, as amended*  
4           *by section 4118(g) of the Omnibus Budget Reconcili-*  
5           *ation Act of 1987, is amended—*

6                     (A) *in paragraph (1), by inserting before*  
7                     *the period at the end the following: “, except that*  
8                     *the Secretary shall grant waivers of such require-*  
9                     *ments up to the applicable numerical limitation*  
10                    *specified in section 1894(e)(1)(B) of the Social*  
11                    *Security Act”;* and

12                    (B) *in paragraph (2)—*

13                             (i) *in subparagraph (A), by striking “,*  
14                             *including permitting the organization to as-*  
15                             *sume progressively (over the initial 3-year*  
16                             *period of the waiver) the full financial*  
17                             *risk”;* and

18                             (ii) *in subparagraph (C), by adding at*  
19                             *the end the following: “In granting further*  
20                             *extensions, an organization shall not be re-*  
21                             *quired to provide for reporting of informa-*  
22                             *tion which is only required because of the*  
23                             *demonstration nature of the project.”.*

24           (2) *ELIMINATION OF REPLICATION REQUIRE-*  
25           *MENT.*—Subparagraph (B) of paragraph (2) of such

1        *section shall not apply to waivers granted under such*  
2        *section after the date of the enactment of this Act.*

3                (3) *TIMELY CONSIDERATION OF APPLICATIONS.—*

4        *In considering an application for waivers under such*  
5        *section before the effective date of repeals made under*  
6        *subsection (d), subject to the numerical limitation*  
7        *under the amendment made by paragraph (1), the*  
8        *application shall be deemed approved unless the Sec-*  
9        *retary of Health and Human Services, within 90*  
10       *days after the date of its submission to the Secretary,*  
11       *either denies such request in writing or informs the*  
12       *applicant in writing with respect to any additional*  
13       *information which is needed in order to make a final*  
14       *determination with respect to the application. After*  
15       *the date the Secretary receives such additional infor-*  
16       *mation, the application shall be deemed approved un-*  
17       *less the Secretary, within 90 days of such date, denies*  
18       *such request.*

19                (c) *PRIORITY AND SPECIAL CONSIDERATION IN APPLI-*  
20       *CATION.—During the 3-year period beginning on the date*  
21       *of enactment of this Act:*

22                (1) *PROVIDER STATUS.—The Secretary of Health*  
23       *and Human Services shall give priority, in process-*  
24       *ing applications of entities to qualify as PACE pro-*

1 *grams under section 1894 or 1932 of the Social Secu-*  
2 *rity Act—*

3 *(A) first, to entities that are operating a*  
4 *PACE demonstration waiver program (as de-*  
5 *finied in section 1894(a)(7) of such Act); and*

6 *(B) then entities that have applied to oper-*  
7 *ate such a program as of May 1, 1997.*

8 *(2) NEW WAIVERS.—The Secretary shall give*  
9 *priority, in the awarding of additional waivers under*  
10 *section 9412(b) of the Omnibus Budget Reconciliation*  
11 *Act of 1986—*

12 *(A) to any entities that have applied for*  
13 *such waivers under such section as of May 1,*  
14 *1997; and*

15 *(B) to any entity that, as of May 1, 1997,*  
16 *has formally contracted with a State to provide*  
17 *services for which payment is made on a*  
18 *capitated basis with an understanding that the*  
19 *entity was seeking to become a PACE provider.*

20 *(3) SPECIAL CONSIDERATION.—The Secretary*  
21 *shall give special consideration, in the processing of*  
22 *applications described in paragraph (1) and the*  
23 *awarding of waivers described in paragraph (2), to*  
24 *an entity which as of May 1, 1997 through formal ac-*  
25 *tivities (such as entering into contracts for feasibility*

1        *studies) has indicated a specific intent to become a*  
2        *PACE provider.*

3        *(d) REPEAL OF CURRENT PACE DEMONSTRATION*  
4        *PROJECT WAIVER AUTHORITY.—*

5                *(1) IN GENERAL.—Subject to paragraph (2), the*  
6        *following provisions of law are repealed:*

7                *(A) Section 603(c) of the Social Security*  
8        *Amendments of 1983 (Public Law 98–21).*

9                *(B) Section 9220 of the Consolidated Omni-*  
10        *bus Budget Reconciliation Act of 1985 (Public*  
11        *Law 99–272).*

12                *(C) Section 9412(b) of the Omnibus Budget*  
13        *Reconciliation Act of 1986 (Public Law 99–509).*

14        *(2) DELAY IN APPLICATION.—*

15                *(A) IN GENERAL.—Subject to subparagraph*  
16        *(B), the repeals made by paragraph (1) shall not*  
17        *apply to waivers granted before the initial effec-*  
18        *tive date of regulations described in subsection*  
19        *(a).*

20                *(B) APPLICATION TO APPROVED WAIVERS.—*  
21        *Such repeals shall apply to waivers granted be-*  
22        *fore such date only after allowing such organiza-*  
23        *tions a transition period (of up to 24 months) in*  
24        *order to permit sufficient time for an orderly*  
25        *transition from demonstration project authority*

1           to general authority provided under the amend-  
2           ments made by this subtitle.

3 **SEC. 5013. STUDY AND REPORTS.**

4       (a) *STUDY.*—

5           (1) *IN GENERAL.*—*The Secretary of Health and*  
6           *Human Services (in close consultation with State ad-*  
7           *ministering agencies, as defined in section 1894(a)(8)*  
8           *of the Social Security Act) shall conduct a study of*  
9           *the quality and cost of providing PACE program*  
10           *services under the medicare and medicaid programs*  
11           *under the amendments made by this subtitle.*

12           (2) *STUDY OF PRIVATE, FOR-PROFIT PROVID-*  
13           *ERS.*—*Such study shall specifically compare the costs,*  
14           *quality, and access to services by entities that are pri-*  
15           *vate, for-profit entities operating under demonstra-*  
16           *tion projects waivers granted under section 1894(h) of*  
17           *the Social Security Act with the costs, quality, and*  
18           *access to services of other PACE providers.*

19       (b) *REPORT.*—

20           (1) *IN GENERAL.*—*Not later than 4 years after*  
21           *the date of enactment of this Act, the Secretary shall*  
22           *provide for a report to Congress on the impact of such*  
23           *amendments on quality and cost of services. The Sec-*  
24           *retary shall include in such report such recommenda-*

1        *tions for changes in the operation of such amend-*  
2        *ments as the Secretary deems appropriate.*

3            (2) *TREATMENT OF PRIVATE, FOR-PROFIT PRO-*  
4        *VIDERS.—The report shall include specific findings on*  
5        *whether any of the following findings is true:*

6            (A) *The number of covered lives enrolled*  
7        *with entities operating under demonstration*  
8        *project waivers under section 1894(h) of the So-*  
9        *cial Security Act is fewer than 800 (or such less-*  
10       *er number as the Secretary may find statis-*  
11       *tically sufficient to make determinations respect-*  
12       *ing findings described in the succeeding subpara-*  
13       *graphs).*

14           (B) *The population enrolled with such enti-*  
15       *ties is less frail than the population enrolled*  
16       *with other PACE providers.*

17           (C) *Access to or quality of care for individ-*  
18       *uals enrolled with such entities is lower than*  
19       *such access or quality for individuals enrolled*  
20       *with other PACE providers.*

21           (D) *The application of such section has re-*  
22       *sulted in an increase in expenditures under the*  
23       *medicare or medicaid programs above the ex-*  
24       *penditures that would have been made if such*  
25       *section did not apply.*



1           (1) in paragraph (1), by striking “1997” and in-  
2           serting “2000”, and

3           (2) in paragraph (4), by striking “1998” and in-  
4           serting “2001”.

5           (b) *EXPANSION OF CAP.*—Section 13567(c) of the Om-  
6           nibus Budget Reconciliation Act of 1993 is amended by  
7           striking “12,000” and inserting “36,000”.

8           (c) *REPORT ON INTEGRATION AND TRANSITION.*—

9           (1) *IN GENERAL.*—The Secretary of Health and  
10          Human Services shall submit to Congress, by not  
11          later than January 1, 1999, a plan for the integra-  
12          tion of health plans offered by social health mainte-  
13          nance organizations (including SHMO I and SHMO  
14          II sites developed under section 2355 of the Deficit  
15          Reduction Act of 1984 and under the amendment  
16          made by section 4207(b)(3)(B)(i) of OBRA–1990, re-  
17          spectively) and similar plans as an option under the  
18          Medicare Choice program under part C of title XVIII  
19          of the Social Security Act.

20          (2) *PROVISION FOR TRANSITION.*—Such plan  
21          shall include a transition for social health mainte-  
22          nance organizations operating under demonstration  
23          project authority under such section.

24          (3) *PAYMENT POLICY.*—The report shall also in-  
25          clude recommendations on appropriate payment levels

1       for plans offered by such organizations, including an  
 2       analysis of the application of risk adjustment factors  
 3       appropriate to the population served by such organi-  
 4       zations.

5                   **Subchapter C—Other Programs**

6   **SEC. 5018. EXTENSION OF CERTAIN MEDICARE COMMUNITY**  
 7                   **NURSING ORGANIZATION DEMONSTRATION**  
 8                   **PROJECTS.**

9       Notwithstanding any other provision of law, dem-  
 10      onstration projects conducted under section 4079 of the Om-  
 11      nibus Budget Reconciliation Act of 1987 may be conducted  
 12      for an additional period of 2 years, and the deadline for  
 13      any report required relating to the results of such projects  
 14      shall be not later than 6 months before the end of such addi-  
 15      tional period.

16                   **CHAPTER 3—COMMISSIONS**

17   **SEC. 5021. NATIONAL BIPARTISAN COMMISSION ON THE FU-**  
 18                   **TURE OF MEDICARE.**

19       (a) *ESTABLISHMENT.*—There is established a commis-  
 20      sion to be known as the National Bipartisan Commission  
 21      on the Future of Medicare (in this section referred to as  
 22      the “Commission”).

23       (b) *FINDINGS.*—Congress finds that—

24               (1) the medicare program under title XVIII of  
 25      the Social Security Act (42 U.S.C. 1395 et seq.) pro-

1 *vides essential health care coverage to this Nation's*  
2 *senior citizens and to individuals with disabilities;*

3 *(2) the Federal Hospital Insurance Trust Fund*  
4 *established under that Act has been spending more*  
5 *than it receives since 1995, and will be bankrupt in*  
6 *the year 2001;*

7 *(3) the Federal Hospital Insurance Trust Fund*  
8 *faces even greater solvency problems in the long run*  
9 *with the aging of the baby boom generation and the*  
10 *continuing decline in the number of workers paying*  
11 *into the medicare program for each medicare bene-*  
12 *ficiary;*

13 *(4) the trustees of the trust funds of the medicare*  
14 *program have reported that growth in spending with-*  
15 *in the Federal Supplementary Medical Insurance*  
16 *Trust Fund established under that Act is*  
17 *unsustainable; and*

18 *(5) expeditious action is needed in order to re-*  
19 *store the financial integrity of the medicare program*  
20 *and to maintain this Nation's commitment to senior*  
21 *citizens and to individuals with disabilities.*

22 *(c) DUTIES OF THE COMMISSION.—The Commission*  
23 *shall—*

1           (1) review and analyze the long-term financial  
2           condition of the medicare program under title XVIII  
3           of the Social Security Act (42 U.S.C. 1395 et seq.);

4           (2) identify problems that threaten the financial  
5           integrity of the Federal Hospital Insurance Trust  
6           Fund and the Federal Supplementary Medical Insur-  
7           ance Trust Fund established under that title (42  
8           U.S.C. 1395i, 1395t), including the extent to which  
9           current medicare update indexes do not accurately re-  
10          flect inflation;

11          (3) analyze potential solutions to the problems  
12          identified under paragraph (2) that will ensure both  
13          the financial integrity of the medicare program and  
14          the provision of appropriate benefits under such pro-  
15          gram;

16          (4) make recommendations to restore the solvency  
17          of the Federal Hospital Insurance Trust Fund and  
18          the financial integrity of the Federal Supplementary  
19          Medical Insurance Trust Fund through the year 2030,  
20          when the last of the baby boomers reaches age 65;

21          (5) make recommendations for establishing the  
22          appropriate financial structure of the medicare pro-  
23          gram as a whole;

1           (6) *make recommendations for establishing the*  
2           *appropriate balance of benefits covered and bene-*  
3           *ficiary contributions to the medicare program;*

4           (7) *make recommendations for the time periods*  
5           *during which the recommendations described in para-*  
6           *graphs (4), (5), and (6) should be implemented;*

7           (8) *make recommendations regarding the financ-*  
8           *ing of graduate medical education (GME), including*  
9           *consideration of alternative broad-based sources of*  
10          *funding for such education and funding for institu-*  
11          *tions not currently eligible for such GME support*  
12          *under the medicare program that conduct approved*  
13          *graduate medical residency programs, such as chil-*  
14          *dren's hospitals;*

15          (9) *make recommendations on the feasibility of*  
16          *allowing individuals between the age of 62 and the*  
17          *medicare eligibility age to buy into the medicare pro-*  
18          *gram;*

19          (10) *make recommendations on the impact of*  
20          *chronic disease and disability trends on future costs*  
21          *and quality of services under the current benefit, fi-*  
22          *nancing, and delivery system structure of the medi-*  
23          *care program; and*

24          (11) *review and analyze such other matters as*  
25          *the Commission deems appropriate.*

1       (d) *MEMBERSHIP.*—

2               (1) *NUMBER AND APPOINTMENT.*—*The Commis-*  
3       *sion shall be composed of 15 members, of whom—*

4                       (A) *three shall be appointed by the Presi-*  
5       *dent;*

6                       (B) *six shall be appointed by the Majority*  
7       *Leader of the Senate, in consultation with the*  
8       *Minority Leader of the Senate, of whom not*  
9       *more than 4 shall be of the same political party;*  
10       *and*

11                      (C) *six shall be appointed by the Speaker of*  
12       *the House of Representatives, in consultation*  
13       *with the Minority Leader of the House of Rep-*  
14       *resentatives, of whom not more than 4 shall be*  
15       *of the same political party.*

16               (2) *COMPTROLLER GENERAL.*—*The Comptroller*  
17       *General of the United States shall advise the Commis-*  
18       *sion on the methodology to be used in identifying*  
19       *problems and analyzing potential solutions in accord-*  
20       *ance with the duties of the Commission described in*  
21       *subsection (c).*

22               (3) *TERMS OF APPOINTMENT.*—*The members*  
23       *shall serve on the Commission for the life of the Com-*  
24       *mission.*

1           (4) *MEETINGS.*—*The Commission shall locate its*  
2           *headquarters in the District of Columbia, and shall*  
3           *meet at the call of the Chairperson.*

4           (5) *QUORUM.*—*Ten members of the Commission*  
5           *shall constitute a quorum, but a lesser number may*  
6           *hold hearings.*

7           (6) *CHAIRPERSON.*—*The Speaker of the House of*  
8           *Representatives, in consultation with the Majority*  
9           *Leader of the Senate, shall designate 1 of the members*  
10          *appointed under paragraph (1) as Chairperson of the*  
11          *Commission.*

12          (7) *VACANCIES.*—*A vacancy on the Commission*  
13          *shall be filled in the same manner in which the origi-*  
14          *nal appointment was made not later than 30 days*  
15          *after the Commission is given notice of the vacancy.*

16          (8) *COMPENSATION.*—*Members of the Commis-*  
17          *sion shall receive no additional pay, allowances, or*  
18          *benefits by reason of their service on the Commission.*

19          (9) *EXPENSES.*—*Each member of the Commis-*  
20          *sion shall receive travel expenses and per diem in lieu*  
21          *of subsistence in accordance with sections 5702 and*  
22          *5703 of title 5, United States Code.*

23          (e) *STAFF AND SUPPORT SERVICES.*—

24                 (1) *EXECUTIVE DIRECTOR.*—

1           (A) *APPOINTMENT.*—*The Chairperson shall*  
2           *appoint an executive director of the Commission.*

3           (B) *COMPENSATION.*—*The executive director*  
4           *shall be paid the rate of basic pay for level V of*  
5           *the Executive Schedule.*

6           (2) *STAFF.*—*With the approval of the Commis-*  
7           *sion, the executive director may appoint such person-*  
8           *nel as the executive director considers appropriate.*

9           (3) *APPLICABILITY OF CIVIL SERVICE LAWS.*—  
10          *The staff of the Commission shall be appointed with-*  
11          *out regard to the provisions of title 5, United States*  
12          *Code, governing appointments in the competitive serv-*  
13          *ice, and shall be paid without regard to the provisions*  
14          *of chapter 51 and subchapter III of chapter 53 of such*  
15          *title (relating to classification and General Schedule*  
16          *pay rates).*

17          (4) *EXPERTS AND CONSULTANTS.*—*With the ap-*  
18          *proval of the Commission, the executive director may*  
19          *procure temporary and intermittent services under*  
20          *section 3109(b) of title 5, United States Code.*

21          (5) *STAFF OF FEDERAL AGENCIES.*—*Upon the*  
22          *request of the Commission, the head of any Federal*  
23          *agency may detail any of the personnel of such agen-*  
24          *cy to the Commission to assist in carrying out the du-*  
25          *ties of the Commission.*

1           (6) *OTHER RESOURCES.*—*The Commission shall*  
2           *have reasonable access to materials, resources, statis-*  
3           *tical data, and other information from the Library of*  
4           *Congress and agencies and elected representatives of*  
5           *the executive and legislative branches of the Federal*  
6           *Government. The Chairperson of the Commission*  
7           *shall make requests for such access in writing when*  
8           *necessary.*

9           (7) *PHYSICAL FACILITIES.*—*The Administrator*  
10          *of the General Services Administration shall locate*  
11          *suitable office space for the operation of the Commis-*  
12          *sion. The facilities shall serve as the headquarters of*  
13          *the Commission and shall include all necessary equip-*  
14          *ment and incidentals required for the proper func-*  
15          *tioning of the Commission.*

16          (f) *POWERS OF COMMISSION.*—

17               (1) *HEARINGS.*—*The Commission may conduct*  
18               *public hearings or forums at the discretion of the*  
19               *Commission, at any time and place the Commission*  
20               *is able to secure facilities and witnesses, for the pur-*  
21               *pose of carrying out the duties of the Commission.*

22               (2) *GIFTS.*—*The Commission may accept, use,*  
23               *and dispose of gifts or donations of services or prop-*  
24               *erty.*

1           (3) *MAILS.*—*The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.*

4           (g) *REPORT.*—*Not later than 1 year after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the recommendations, findings, and conclusions of the Commission.*

9           (h) *TERMINATION.*—*The Commission shall terminate on the date which is 30 days after the date the Commission submits its report to the President and to Congress under subsection (g).*

13          (i) *FUNDING.*—*There is authorized to be appropriated to the Commission such sums as are necessary to carry out the purposes of this section. Sums appropriated under this subsection shall be paid equally from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).*

20 **SEC. 5022. MEDICARE PAYMENT ADVISORY COMMISSION.**

21          (a) *IN GENERAL.*—*Title XVIII is amended by inserting after section 1804 the following new section:*

23                   “*MEDICARE PAYMENT ADVISORY COMMISSION*

24                   “*SEC. 1805. (a) ESTABLISHMENT.*—*There is hereby established the Medicare Payment Advisory Commission (in this section referred to as the ‘Commission’).*

1       “(b) *DUTIES.*—

2               “(1) *REVIEW OF PAYMENT POLICIES AND ANNUAL*  
3 *REPORTS.*—*The Commission shall—*

4                       “(A) *review payment policies under this*  
5 *title, including the topics described in paragraph*  
6 *(2);*

7                       “(B) *make recommendations to Congress*  
8 *concerning such payment policies;*

9                       “(C) *by not later than March 1 of each year*  
10 *(beginning with 1998), submit a report to Con-*  
11 *gress containing the results of such reviews and*  
12 *its recommendations concerning such policies;*  
13 *and*

14                       “(D) *by not later than June 1 of each year*  
15 *(beginning with 1998), submit a report to Con-*  
16 *gress containing an examination of issues affect-*  
17 *ing the medicare program, including the impli-*  
18 *cations of changes in health care delivery in the*  
19 *United States and in the market for health care*  
20 *services on the medicare program.*

21       “(2) *SPECIFIC TOPICS TO BE REVIEWED.*—

22                       “(A) *MEDICARE CHOICE PROGRAM.*—*Spe-*  
23 *cifically, the Commission shall review, with re-*  
24 *spect to the Medicare Choice program under part*  
25 *C, the following:*

1           “(i) *The methodology for making pay-*  
2           *ment to plans under such program, includ-*  
3           *ing the making of differential payments and*  
4           *the distribution of differential updates*  
5           *among different payment areas.*

6           “(ii) *The mechanisms used to adjust*  
7           *payments for risk and the need to adjust*  
8           *such mechanisms to take into account health*  
9           *status of beneficiaries.*

10           “(iii) *The implications of risk selection*  
11           *both among Medicare Choice organizations*  
12           *and between the Medicare Choice option*  
13           *and the traditional medicare fee-for-service*  
14           *option.*

15           “(iv) *The development and implemen-*  
16           *tation of mechanisms to assure the quality*  
17           *of care for those enrolled with Medicare*  
18           *Choice organizations.*

19           “(v) *The impact of the Medicare Choice*  
20           *program on access to care for medicare*  
21           *beneficiaries.*

22           “(vi) *Other major issues in implemen-*  
23           *tation and further development of the Medi-*  
24           *care Choice program.*

1           “(B) *TRADITIONAL MEDICARE FEE-FOR-*  
2           *SERVICE SYSTEM.—Specifically, the Commission*  
3           *shall review payment policies under parts A and*  
4           *B, including—*

5                     “(i) *the factors affecting expenditures*  
6                     *for services in different sectors, including*  
7                     *the process for updating hospital, skilled*  
8                     *nursing facility, physician, and other fees,*

9                     “(ii) *payment methodologies, and*

10                    “(iii) *their relationship to access and*  
11                    *quality of care for medicare beneficiaries.*

12           “(C) *INTERACTION OF MEDICARE PAYMENT*  
13           *POLICIES WITH HEALTH CARE DELIVERY GEN-*  
14           *ERALLY.—Specifically, the Commission shall re-*  
15           *view the effect of payment policies under this*  
16           *title on the delivery of health care services other*  
17           *than under this title and assess the implications*  
18           *of changes in health care delivery in the United*  
19           *States and in the general market for health care*  
20           *services on the medicare program.*

21           “(3) *COMMENTS ON CERTAIN SECRETARIAL RE-*  
22           *PORTS.—If the Secretary submits to Congress (or a*  
23           *committee of Congress) a report that is required by*  
24           *law and that relates to payment policies under this*  
25           *title, the Secretary shall transmit a copy of the report*

1       to the Commission. The Commission shall review the  
2       report and, not later than 6 months after the date of  
3       submittal of the Secretary's report to Congress, shall  
4       submit to the appropriate committees of Congress  
5       written comments on such report. Such comments  
6       may include such recommendations as the Commis-  
7       sion deems appropriate.

8               “(4) *AGENDA AND ADDITIONAL REVIEWS.*—The  
9       Commission shall consult periodically with the chair-  
10      men and ranking minority members of the appro-  
11      priate committees of Congress regarding the Commis-  
12      sion's agenda and progress towards achieving the  
13      agenda. The Commission may conduct additional re-  
14      views, and submit additional reports to the appro-  
15      priate committees of Congress, from time to time on  
16      such topics relating to the program under this title as  
17      may be requested by such chairmen and members and  
18      as the Commission deems appropriate.

19              “(5) *AVAILABILITY OF REPORTS.*—The Commis-  
20      sion shall transmit to the Secretary a copy of each re-  
21      port submitted under this subsection and shall make  
22      such reports available to the public.

23              “(6) *APPROPRIATE COMMITTEES OF CON-*  
24      *GRESS.*—For purposes of this section, the term ‘ap-  
25      propriate committees of Congress’ means the Commit-

1 *tees on Ways and Means and Commerce of the House*  
2 *of Representatives and the Committee on Finance of*  
3 *the Senate.*

4 “(c) *MEMBERSHIP.*—

5 “(1) *NUMBER AND APPOINTMENT.*—*The Commis-*  
6 *sion shall be composed of 15 members appointed by*  
7 *the Comptroller General.*

8 “(2) *QUALIFICATIONS.*—

9 “(A) *IN GENERAL.*—*The membership of the*  
10 *Commission shall include individuals with na-*  
11 *tional recognition for their expertise in health fi-*  
12 *nance and economics, actuarial science, health*  
13 *facility management, health plans and inte-*  
14 *grated delivery systems, reimbursement of health*  
15 *facilities, allopathic and osteopathic physicians,*  
16 *and other providers of health services, and other*  
17 *related fields, who provide a mix of different pro-*  
18 *fessionals, broad geographic representation, and*  
19 *a balance between urban and rural representa-*  
20 *tives.*

21 “(B) *INCLUSION.*—*The membership of the*  
22 *Commission shall include (but not be limited to)*  
23 *physicians and other health professionals, em-*  
24 *ployers, third-party payers, individuals skilled*  
25 *in the conduct and interpretation of biomedical,*

1           *health services, and health economics research*  
2           *and expertise in outcomes and effectiveness re-*  
3           *search and technology assessment. Such member-*  
4           *ship shall also include representatives of consum-*  
5           *ers and the elderly.*

6           “(C) *MAJORITY NONPROVIDERS.*—*Individ-*  
7           *uals who are directly involved in the provision,*  
8           *or management of the delivery, of items and*  
9           *services covered under this title shall not con-*  
10           *stitute a majority of the membership of the Com-*  
11           *mission.*

12           “(D) *ETHICAL DISCLOSURE.*—*The Comp-*  
13           *troller General shall establish a system for public*  
14           *disclosure by members of the Commission of fi-*  
15           *nancial and other potential conflicts of interest*  
16           *relating to such members.*

17           “(3) *TERMS.*—

18           “(A) *IN GENERAL.*—*The terms of members*  
19           *of the Commission shall be for 3 years except*  
20           *that the Comptroller General shall designate*  
21           *staggered terms for the members first appointed.*

22           “(B) *VACANCIES.*—*Any member appointed*  
23           *to fill a vacancy occurring before the expiration*  
24           *of the term for which the member’s predecessor*  
25           *was appointed shall be appointed only for the re-*

1            *mainder of that term. A member may serve after*  
2            *the expiration of that member's term until a suc-*  
3            *cessor has taken office. A vacancy in the Com-*  
4            *mission shall be filled in the manner in which*  
5            *the original appointment was made.*

6            *“(4) COMPENSATION.—While serving on the busi-*  
7            *ness of the Commission (including traveltime), a*  
8            *member of the Commission shall be entitled to com-*  
9            *penetration at the per diem equivalent of the rate pro-*  
10           *vided for level IV of the Executive Schedule under sec-*  
11           *tion 5315 of title 5, United States Code; and while so*  
12           *servicing away from home and the member's regular*  
13           *place of business, a member may be allowed travel ex-*  
14           *penses, as authorized by the Chairman of the Com-*  
15           *mission. Physicians serving as personnel of the Com-*  
16           *mission may be provided a physician comparability*  
17           *allowance by the Commission in the same manner as*  
18           *Government physicians may be provided such an al-*  
19           *lowance by an agency under section 5948 of title 5,*  
20           *United States Code, and for such purpose subsection*  
21           *(i) of such section shall apply to the Commission in*  
22           *the same manner as it applies to the Tennessee Valley*  
23           *Authority. For purposes of pay (other than pay of*  
24           *members of the Commission) and employment bene-*  
25           *fits, rights, and privileges, all personnel of the Com-*

1       *mission shall be treated as if they were employees of*  
2       *the United States Senate.*

3               “(5) *CHAIRMAN; VICE CHAIRMAN.*—*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 Chairman for that term of appointment.*

8               “(6) *MEETINGS.*—*The Commission shall meet at the call of the Chairman.*

10              “(d) *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—*

14                       “(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 (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);*

20                       “(2) *seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;*

23                       “(3) *enter into contracts or make other arrangements, as may be necessary for the conduct of the*

1 *work of the Commission (without regard to section*  
2 *3709 of the Revised Statutes (41 U.S.C. 5));*

3 *“(4) make advance, progress, and other pay-*  
4 *ments which relate to the work of the Commission;*

5 *“(5) provide transportation and subsistence for*  
6 *persons serving without compensation; and*

7 *“(6) prescribe such rules and regulations as it*  
8 *deems necessary with respect to the internal organiza-*  
9 *tion and operation of the Commission.*

10 *“(e) POWERS.—*

11 *“(1) OBTAINING OFFICIAL DATA.—The Commis-*  
12 *sion may secure directly from any department or*  
13 *agency of the United States information necessary to*  
14 *enable it to carry out this section. Upon request of the*  
15 *Chairman, the head of that department or agency*  
16 *shall furnish that information to the Commission on*  
17 *an agreed upon schedule.*

18 *“(2) DATA COLLECTION.—In order to carry out*  
19 *its functions, the Commission shall—*

20 *“(A) utilize existing information, both pub-*  
21 *lished and unpublished, where possible, collected*  
22 *and assessed either by its own staff or under*  
23 *other arrangements made in accordance with*  
24 *this section,*

1           “(B) carry out, or award grants or con-  
2           tracts for, original research and experimentation,  
3           where existing information is inadequate, and

4           “(C) adopt procedures allowing any inter-  
5           ested party to submit information for the Com-  
6           mission’s use in making reports and rec-  
7           ommendations.

8           “(3) ACCESS OF GAO TO INFORMATION.—The  
9           Comptroller General shall have unrestricted access to  
10          all deliberations, records, and nonproprietary data of  
11          the Commission, immediately upon request.

12          “(4) PERIODIC AUDIT.—The Commission shall be  
13          subject to periodic audit by the Comptroller General.

14          “(f) AUTHORIZATION OF APPROPRIATIONS.—

15          “(1) REQUEST FOR APPROPRIATIONS.—The  
16          Commission shall submit requests for appropriations  
17          in the same manner as the Comptroller General sub-  
18          mits requests for appropriations, but amounts appro-  
19          priated for the Commission shall be separate from  
20          amounts appropriated for the Comptroller General.

21          “(2) AUTHORIZATION.—There are authorized to  
22          be appropriated such sums as may be necessary to  
23          carry out the provisions of this section. Sixty percent  
24          of such appropriation shall be payable from the Fed-  
25          eral Hospital Insurance Trust Fund, and 40 percent

1 of such appropriation shall be payable from the Fed-  
2 eral Supplementary Medical Insurance Trust Fund.”.

3 (b) *ABOLITION OF PROPAC AND PPRC.*—

4 (1) *PROPAC.*—

5 (A) *IN GENERAL.*—Section 1886(e) (42  
6 U.S.C. 1395ww(e)) is amended—

7 (i) by striking paragraphs (2) and (6);

8 and

9 (ii) in paragraph (3), by striking “(A)  
10 The Commission” and all that follows  
11 through “(B)”.

12 (B) *CONFORMING AMENDMENT.*—Section  
13 1862 (42 U.S.C. 1395y) is amended by striking  
14 “Prospective Payment Assessment Commission”  
15 each place it appears in subsection (a)(1)(D)  
16 and subsection (i) and inserting “Medicare Pay-  
17 ment Advisory Commission”.

18 (2) *PPRC.*—

19 (A) *IN GENERAL.*—Title XVIII is amended  
20 by striking section 1845 (42 U.S.C. 1395w–1).

21 (B) *ELIMINATION OF CERTAIN REPORTS.*—  
22 Section 1848 (42 U.S.C. 1395w–4) is amended—

23 (i) by striking subparagraph (F) of  
24 subsection (d)(2),

1                   (ii) by striking subparagraph (B) of  
2                   subsection (f)(1), and

3                   (iii) in subsection (f)(3), by striking  
4                   “Physician Payment Review Commission,”.

5                   (C) CONFORMING AMENDMENTS.—Section  
6                   1848 (42 U.S.C. 1395w–4) is amended by strik-  
7                   ing “Physician Payment Review Commission”  
8                   and inserting “Medicare Payment Advisory  
9                   Commission” each place it appears in sub-  
10                  sections (c)(2)(B)(iii), (g)(6)(C), and (g)(7)(C).

11                  (c) EFFECTIVE DATE; TRANSITION.—

12                  (1) IN GENERAL.—The Comptroller General shall  
13                  first provide for appointment of members to the Medi-  
14                  care Payment Advisory Commission (in this sub-  
15                  section referred to as “MedPAC”) by not later than  
16                  September 30, 1997.

17                  (2) TRANSITION.—As quickly as possible after  
18                  the date a majority of members of MedPAC are first  
19                  appointed, the Comptroller General, in consultation  
20                  with the Prospective Payment Assessment Commis-  
21                  sion (in this subsection referred to as “ProPAC”) and  
22                  the Physician Payment Review Commission (in this  
23                  subsection referred to as “PPRC”), shall provide for  
24                  the termination of the ProPAC and the PPRC. As of  
25                  the date of termination of the respective Commissions,

1 *the amendments made by paragraphs (1) and (2), re-*  
2 *spectively, of subsection (b) become effective. The*  
3 *Comptroller General, to the extent feasible, shall pro-*  
4 *vide for the transfer to the MedPAC of assets and staff*  
5 *of the ProPAC and the PPRC, without any loss of*  
6 *benefits or seniority by virtue of such transfers. Fund*  
7 *balances available to the ProPAC or the PPRC for*  
8 *any period shall be available to the MedPAC for such*  
9 *period for like purposes.*

10 (3) *CONTINUING RESPONSIBILITY FOR RE-*  
11 *PORTS.—The MedPAC shall be responsible for the*  
12 *preparation and submission of reports required by*  
13 *law to be submitted (and which have not been submit-*  
14 *ted by the date of establishment of the MedPAC) by*  
15 *the ProPAC and the PPRC, and, for this purpose,*  
16 *any reference in law to either such Commission is*  
17 *deemed, after the appointment of the MedPAC, to*  
18 *refer to the MedPAC.*

## 19 **CHAPTER 4—MEDIGAP PROTECTIONS**

### 20 **SEC. 5031. MEDIGAP PROTECTIONS.**

21 (a) *GUARANTEEING ISSUE WITHOUT PREEXISTING*  
22 *CONDITIONS FOR CONTINUOUSLY COVERED INDIVID-*  
23 *UALS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amend-*  
24 *ed—*

1           (1) in paragraph (3), by striking “paragraphs  
2           (1) and (2)” and inserting “this subsection”,

3           (2) by redesignating paragraph (3) as para-  
4           graph (4), and

5           (3) by inserting after paragraph (2) the follow-  
6           ing new paragraph:

7           “(3)(A) The issuer of a medicare supplemental pol-  
8           icy—

9           “(i) may not deny or condition the issuance or  
10           effectiveness of a medicare supplemental policy de-  
11           scribed in subparagraph (C) that is offered and is  
12           available for issuance to new enrollees by such issuer;

13           “(ii) may not discriminate in the pricing of such  
14           policy, because of health status, claims experience, re-  
15           ceipt of health care, or medical condition; and

16           “(iii) may not impose an exclusion of benefits  
17           based on a pre-existing condition under such policy,  
18           in the case of an individual described in subparagraph (B)  
19           who seeks to enroll under the policy not later than 63 days  
20           after the date of the termination of enrollment described in  
21           such subparagraph and who submits evidence of the date  
22           of termination or disenrollment along with the application  
23           for such medicare supplemental policy.

24           “(B) An individual described in this subparagraph is  
25           an individual described in any of the following clauses:

1           “(i) *The individual is enrolled under an em-*  
2           *ployee welfare benefit plan that provides health bene-*  
3           *fits that supplement the benefits under this title and*  
4           *the plan terminates or ceases to provide all such sup-*  
5           *plemental health benefits to the individual.*

6           “(ii) *The individual is enrolled with a Medicare*  
7           *Choice organization under a Medicare Choice plan*  
8           *under part C, and there are circumstances permitting*  
9           *discontinuance of the individual’s election of the plan*  
10           *under section 1851(e)(4).*

11           “(iii) *The individual is enrolled with an eligible*  
12           *organization under a contract under section 1876, a*  
13           *similar organization operating under demonstration*  
14           *project authority, with an organization under an*  
15           *agreement under section 1833(a)(1)(A), or with an*  
16           *organization under a policy described in subsection*  
17           *(t), and such enrollment ceases under the same cir-*  
18           *cumstances that would permit discontinuance of an*  
19           *individual’s election of coverage under section*  
20           *1851(c)(4) and, in the case of a policy described in*  
21           *subsection (t), there is no provision under applicable*  
22           *State law for the continuation of coverage under such*  
23           *policy.*

1           “(iv) *The individual is enrolled under a medi-*  
2 *care supplemental policy under this section and such*  
3 *enrollment ceases because—*

4                   “(I) *of the bankruptcy or insolvency of the*  
5 *issuer or because of other involuntary termi-*  
6 *nation of coverage or enrollment under such pol-*  
7 *icy and there is no provision under applicable*  
8 *State law for the continuation of such coverage;*

9                   “(II) *the issuer of the policy substantially*  
10 *violated a material provision of the policy; or*

11                   “(III) *the issuer (or an agent or other en-*  
12 *tity acting on the issuer’s behalf) materially mis-*  
13 *represented the policy’s provisions in marketing*  
14 *the policy to the individual.*

15           “(v) *The individual—*

16                   “(I) *was enrolled under a medicare supple-*  
17 *mental policy under this section,*

18                   “(II) *subsequently terminates such enroll-*  
19 *ment and enrolls, for the first time, with any*  
20 *Medicare Choice organization under a Medicare*  
21 *Choice plan under part C, any eligible organiza-*  
22 *tion under a contract under section 1876, any*  
23 *similar organization operating under demonstra-*  
24 *tion project authority, any organization under*

1           *an agreement under section 1833(a)(1)(A), or*  
2           *any policy described in subsection (t), and*

3                   *“(III) the subsequent enrollment under sub-*  
4                   *clause (II) is terminated by the enrollee during*  
5                   *the first 12 months of such enrollment.*

6                   *“(vi) The individual, upon first becoming eligi-*  
7                   *ble for medicare at age 65, enrolls in a Medicare*  
8                   *Choice plan and within 12 months of such enroll-*  
9                   *ment, disenrolls from such plan.*

10           *“(C)(i) Subject to clauses (ii), a medicare supple-*  
11           *mental policy described in this subparagraph is a policy*  
12           *the benefits under which are comparable or lessor in rela-*  
13           *tion to the benefits under the plan, policy, or contract de-*  
14           *scribed in the applicable clause of subparagraph (B).*

15                   *“(ii) Only for purposes of an individual described in*  
16                   *subparagraph (B)(vi), a medicare supplemental policy de-*  
17                   *scribed in this subparagraph shall include any medicare*  
18                   *supplemental policy.*

19                   *“(D) At the time of an event described in subpara-*  
20                   *graph (B) because of which an individual ceases enrollment*  
21                   *or loses coverage or benefits under a contract or agreement,*  
22                   *policy, or plan, the organization that offers the contract or*  
23                   *agreement, the insurer offering the policy, or the adminis-*  
24                   *trator of the plan, respectively, shall notify the individual*  
25                   *of the rights of the individual, and obligations of issuers*

1 of medicare supplemental policies, under subparagraph  
2 (A).”.

3 (b) *LIMITATION ON IMPOSITION OF PREEXISTING CON-*  
4 *DITION EXCLUSION DURING INITIAL OPEN ENROLLMENT*  
5 *PERIOD.*—Section 1882(s)(2) (42 U.S.C. 1395ss(s)(2)) is  
6 amended—

7 (1) in subparagraph (B), by striking “subpara-

8 graph (C)” and inserting “subparagraphs (C) and

9 (D)”, and

10 (2) by adding at the end the following new sub-

11 paragraph:

12 “(D) In the case of a policy issued during the 6-month

13 period described in subparagraph (A) to an individual who

14 is 65 years of age or older as of the date of issuance and

15 who as of the date of the application for enrollment has

16 a continuous period of creditable coverage (as defined in

17 section 2701(c) of the Public Health Service Act) of—

18 “(i) at least 6 months, the policy may not ex-

19 clude benefits based on a pre-existing condition; or

20 “(ii) less than 6 months, if the policy excludes

21 benefits based on a preexisting condition, the policy

22 shall reduce the period of any preexisting condition

23 exclusion by the aggregate of the periods of creditable

24 coverage (if any, as so defined) applicable to the indi-

25 vidual as of the enrollment date.

1 *The Secretary shall specify the manner of the reduction*  
2 *under clause (ii), based upon the rules used by the Secretary*  
3 *in carrying out section 2701(a)(3) of such Act.”.*

4 (c) *EXTENDING 6-MONTH INITIAL ENROLLMENT PE-*  
5 *RIOD TO NON-ELDERLY MEDICARE BENEFICIARIES.—Sec-*  
6 *tion 1882(s)(2)(A)(ii) of (42 U.S.C. 1395ss(s)(2)(A)) is*  
7 *amended by striking “is submitted” and all that follows and*  
8 *inserting the following: “is submitted—*

9 (I) *before the end of the 6-month period begin-*  
10 *ning with the first month as of the first day on which*  
11 *the individual is 65 years of age or older and is en-*  
12 *rolled for benefits under part B; and*

13 (II) *at the time the individual first becomes eli-*  
14 *gible for benefits under part A pursuant to section*  
15 *226(b) and is enrolled for benefits under part B, be-*  
16 *fore the end of the 6-month period beginning with the*  
17 *first month as of the first day on which the individ-*  
18 *ual is so eligible and so enrolled.”.*

19 (d) *EFFECTIVE DATES.—*

20 (1) *GUARANTEED ISSUE.—The amendment made*  
21 *by subsection (a) shall take effect on July 1, 1998.*

22 (2) *LIMIT ON PREEXISTING CONDITION EXCLU-*  
23 *SIONS.—The amendment made by subsection (b) shall*  
24 *apply to policies issued on or after July 1, 1998.*

25 (3) *NONELDERLY MEDICARE BENEFICIARIES.—*

1           (A) *IN GENERAL.*—*The amendment made*  
2           *by subsection (c) shall apply to policies issued on*  
3           *and after July 1, 1998.*

4           (B) *TRANSITION RULE.*—*In the case of an*  
5           *individual who first became eligible for benefits*  
6           *under part A of title XVIII of the Social Secu-*  
7           *urity Act pursuant to section 226(b) of such Act*  
8           *and enrolled for benefits under part B of such*  
9           *title before July 1, 1998, the 6-month period de-*  
10           *scribed in section 1882(s)(2)(A) of such Act shall*  
11           *begin on July 1, 1998. Before July 1, 1998, the*  
12           *Secretary of Health and Human Services shall*  
13           *notify any individual described in the previous*  
14           *sentence of their rights in connection with medi-*  
15           *care supplemental policies under section 1882 of*  
16           *such Act, by reason of the amendment made by*  
17           *subsection (c).*

18           (e) *TRANSITION PROVISIONS.*—

19           (1) *IN GENERAL.*—*If the Secretary of Health and*  
20           *Human Services identifies a State as requiring a*  
21           *change to its statutes or regulations to conform its*  
22           *regulatory program to the changes made by this sec-*  
23           *tion, the State regulatory program shall not be con-*  
24           *sidered to be out of compliance with the requirements*  
25           *of section 1882 of the Social Security Act due solely*

1 *to failure to make such change until the date specified*  
2 *in paragraph (4).*

3 (2) *NAIC STANDARDS.—If, within 9 months*  
4 *after the date of the enactment of this Act, the Na-*  
5 *tional Association of Insurance Commissioners (in*  
6 *this subsection referred to as the “NAIC”) modifies its*  
7 *NAIC Model regulation relating to section 1882 of the*  
8 *Social Security Act (referred to in such section as the*  
9 *1991 NAIC Model Regulation, as modified pursuant*  
10 *to section 171(m)(2) of the Social Security Act*  
11 *Amendments of 1994 (Public Law 103–432) and as*  
12 *modified pursuant to section 1882(d)(3)(A)(vi)(IV) of*  
13 *the Social Security Act, as added by section 271(a)*  
14 *of the Health Insurance Portability and Accountabil-*  
15 *ity Act of 1996 (Public Law 104–191) to conform to*  
16 *the amendments made by this section, such revised*  
17 *regulation incorporating the modifications shall be*  
18 *considered to be the applicable NAIC model regulation*  
19 *(including the revised NAIC model regulation and the*  
20 *1991 NAIC Model Regulation) for the purposes of*  
21 *such section.*

22 (3) *SECRETARY STANDARDS.—If the NAIC does*  
23 *not make the modifications described in paragraph*  
24 *(2) within the period specified in such paragraph, the*  
25 *Secretary of Health and Human Services shall make*

1     *the modifications described in such paragraph and*  
2     *such revised regulation incorporating the modifica-*  
3     *tions shall be considered to be the appropriate Regu-*  
4     *lation for the purposes of such section.*

5             (4) *DATE SPECIFIED.—*

6                     (A) *IN GENERAL.—Subject to subparagraph*  
7                     *(B), the date specified in this paragraph for a*  
8                     *State is the earlier of—*

9                             (i) *the date the State changes its stat-*  
10                            *utes or regulations to conform its regulatory*  
11                            *program to the changes made by this sec-*  
12                            *tion, or*

13                           (ii) *1 year after the date the NAIC or*  
14                            *the Secretary first makes the modifications*  
15                            *under paragraph (2) or (3), respectively.*

16                     (B) *ADDITIONAL LEGISLATIVE ACTION RE-*  
17                     *QUIRED.—In the case of a State which the Sec-*  
18                     *retary identifies as—*

19                           (i) *requiring State legislation (other*  
20                            *than legislation appropriating funds) to*  
21                            *conform its regulatory program to the*  
22                            *changes made in this section, but*

23                           (ii) *having a legislature which is not*  
24                            *scheduled to meet in 1999 in a legislative*

1           *session in which such legislation may be*  
2           *considered,*  
3           *the date specified in this paragraph is the first*  
4           *day of the first calendar quarter beginning after*  
5           *the close of the first legislative session of the*  
6           *State legislature that begins on or after July 1,*  
7           *1999. For purposes of the previous sentence, in*  
8           *the case of a State that has a 2-year legislative*  
9           *session, each year of such session shall be deemed*  
10          *to be a separate regular session of the State legis-*  
11          *lature.*

12 **SEC. 5032. ADDITION OF HIGH DEDUCTIBLE MEDIGAP POL-**  
13           **ICY.**

14          *(a) IN GENERAL.—Section 1882(p) (42 U.S.C.*  
15          *1395ss(p)) is amended by adding at the end the following:*

16            “(11)(A) *On and after the date specified in sub-*  
17            *paragraph (C)—*

18                “(i) *each State with an approved regulatory*  
19                *program, and*

20                “(ii) *in the case of a State without an ap-*  
21                *proved regulatory program, the Secretary,*

22            *shall, in addition to the 10 policies allowed under*  
23            *paragraph (2)(C), allow at least 1 other policy de-*  
24            *scribed in subparagraph (B).*

1           “(B)(i) A policy is described in this subpara-  
2 graph if it consists of—

3                   “(I) one of the 10 benefit packages described  
4 in paragraph (2)(C), and

5                   “(II) a high deductible feature.

6           “(ii) For purposes of clause (i), a high deductible  
7 feature is one which requires the beneficiary of the  
8 policy to pay annual out-of-pocket expenses (other  
9 than premiums) of \$1,500 before the policy begins  
10 payment of benefits.

11           “(C)(i) Subject to clause (ii), the date described  
12 in this subparagraph is one year after the date of the  
13 enactment of this paragraph.

14           “(ii) In the case of a State which the Secretary  
15 identifies as—

16                   “(I) requiring State legislation (other than  
17 legislation appropriating funds) in order to meet  
18 the requirements of this paragraph, but

19                   “(II) having a legislature which is not  
20 scheduled to meet in 1997 in a legislative session  
21 in which such legislation may be considered,

22 the date specified in this subparagraph is the first  
23 day of the first calendar quarter beginning after the  
24 close of the first legislative session of the State legisla-  
25 ture that begins on or after January 1, 1998. For

1        *purposes of the previous sentence, in the case of a*  
 2        *State that has a 2-year legislative session, each year*  
 3        *of such session shall be deemed to be a separate regu-*  
 4        *lar session of the State legislature.”.*

5        (b)            *CONFORMING            AMENDMENT.—Section*  
 6        *1882(p)(2)(C) (42 U.S.C. 1395ss(p)(2)(C)) is amended by*  
 7        *inserting “or (11)” after “paragraph (4)(B)”.*

## 8                    **CHAPTER 5—DEMONSTRATIONS**

### 9        **Subchapter A—Medicare Choice Competitive**

#### 10                    **Pricing Demonstration Project**

##### 11                    **PART I—IN GENERAL**

#### 12        **SEC. 5041. MEDICARE CHOICE COMPETITIVE PRICING DEM-** 13                    **ONSTRATION PROJECT.**

14        (a) *ESTABLISHMENT.—The Secretary of Health and*  
 15        *Human Services (in this subchapter referred to as the “Sec-*  
 16        *retary”)* shall, beginning January 1, 1999, conduct dem-  
 17        *onstration projects in applicable areas (in this section re-*  
 18        *ferred to as the “project”)* for the purpose of—

19                    (1) *applying a pricing methodology for pay-*  
 20                    *ments to Medicare Choice organizations under part C*  
 21                    *of title XVIII of the Social Security Act (as amended*  
 22                    *by section 5001 of this Act) that uses the competitive*  
 23                    *market approach described in section 5042;*

24                    (2) *applying a benefit structure and beneficiary*  
 25                    *premium structure described in section 5043;*

1           (3) *applying the information and quality pro-*  
2 *grams under part II; and*

3           (4) *evaluating the effects of the methodology and*  
4 *structures described in the preceding paragraphs on*  
5 *medicare fee-for-service spending under parts A and*  
6 *B of the Social Security Act in the project area.*

7       **(b) APPLICABLE AREA DEFINED.—**

8           (1) *IN GENERAL.—In subsection (a), the term*  
9 *“applicable area” means, as determined by the Sec-*  
10 *retary—*

11           (A) *10 urban areas with respect to which*  
12 *less than 25 percent of medicare beneficiaries are*  
13 *enrolled with an eligible organization under sec-*  
14 *tion 1876 of the Social Security Act (42 U.S.C.*  
15 *1395mm); and*

16           (B) *3 rural areas not described in para-*  
17 *graph (1).*

18           (2) *TREATMENT AS MEDICARE CHOICE PAYMENT*  
19 *AREA.—For purposes of this subchapter and part C*  
20 *of title XVIII of the Social Security Act, any applica-*  
21 *ble area shall be treated as a Medicare Choice pay-*  
22 *ment area (hereinafter referred to as the “applicable*  
23 *Medicare Choice payment area”).*

24           (c) *TECHNICAL ADVISORY GROUP.—Upon the selection*  
25 *of an area for inclusion in the project, the Secretary shall*

1 *appoint a technical advisory group, composed of representa-*  
2 *tives of Medicare Choice organizations, medicare bene-*  
3 *ficiaries, employers, and other persons in the area affected*  
4 *by the project who have technical expertise relative to the*  
5 *design and implementation of the project to advise the Sec-*  
6 *retary concerning how the project will be implemented in*  
7 *the area.*

8 *(d) EVALUATION.—*

9 *(1) IN GENERAL.—Not later than December 31,*  
10 *2001, the Secretary shall submit to the President a re-*  
11 *port regarding the demonstration projects conducted*  
12 *under this section.*

13 *(2) CONTENTS OF REPORT.—The report described*  
14 *in paragraph (1) shall include the following:*

15 *(A) A description of the demonstration*  
16 *projects conducted under this section.*

17 *(B) An evaluation of the effectiveness of the*  
18 *demonstration projects conducted under this sec-*  
19 *tion and any legislative recommendations deter-*  
20 *mined appropriate by the Secretary.*

21 *(C) Any other information regarding the*  
22 *demonstration projects conducted under this sec-*  
23 *tion that the Secretary determines to be appro-*  
24 *priate.*



1 *capitation rate under part C of title XVIII of the Social*  
2 *Security Act for Medicare Choice plans within such area*  
3 *shall be the standardized payment amount determined*  
4 *under this section rather than the amount determined under*  
5 *section 1853 of such Act.*

6 (b) *DETERMINATION OF STANDARDIZED PAYMENT*  
7 *AMOUNT.—*

8 (1) *SUBMISSION AND CHARGING OF PREMIUMS.—*

9 (A) *IN GENERAL.—Not later than June 1 of*  
10 *each calendar year, each Medicare Choice orga-*  
11 *nization offering one or more Medicare Choice*  
12 *plans in an applicable Medicare Choice payment*  
13 *area shall file with the Secretary, in a form and*  
14 *manner and at a time specified by the Secretary,*  
15 *a bid which contains the amount of the monthly*  
16 *premium for coverage under each such Medicare*  
17 *Choice plan.*

18 (B) *UNIFORM PREMIUM.—The premiums*  
19 *charged by a Medicare Choice plan sponsor*  
20 *under this part may not vary among individuals*  
21 *who reside in the same applicable Medicare*  
22 *Choice payment area.*

23 (C) *TERMS AND CONDITIONS OF IMPOSING*  
24 *PREMIUMS.—Each Medicare Choice organization*

1           *shall permit the payment of premiums on a*  
2           *monthly basis.*

3           (2) *ANNOUNCEMENT OF STANDARDIZED PAYMENT*  
4           *AMOUNT.—*

5                   (A) *AUTHORITY TO NEGOTIATE.—After bids*  
6                   *are submitted under paragraph (1), the Sec-*  
7                   *retary may negotiate with Medicare Choice orga-*  
8                   *nizations in order to modify such bids if the Sec-*  
9                   *retary determined that the bids do not provide*  
10                   *enough revenues to ensure the plan’s actuarial*  
11                   *soundness, are too high relative to the applicable*  
12                   *Medicare Choice payment area, foster adverse se-*  
13                   *lection, or otherwise require renegotiation under*  
14                   *this paragraph.*

15                   (B) *IN GENERAL.—Not later than July 31*  
16                   *of each calendar year (beginning with 1998), the*  
17                   *Secretary shall determine, and announce in a*  
18                   *manner intended to provide notice to interested*  
19                   *parties, a standardized payment amount deter-*  
20                   *mined in accordance with this paragraph for the*  
21                   *following calendar year for each applicable Med-*  
22                   *icare Choice payment area.*

23           (3) *CALCULATION OF PAYMENT AMOUNTS.—*

24                   (A) *IN GENERAL.—The standardized pay-*  
25                   *ment amount for a calendar year after 1998 for*

1           *any applicable Medicare Choice payment area*  
2           *shall be equal to the maximum premium deter-*  
3           *mined for such area under subparagraph (B).*

4           *(B) MAXIMUM PREMIUM.—The maximum*  
5           *premium for any applicable Medicare Choice*  
6           *payment area shall be equal to the amount deter-*  
7           *mined under subparagraph (C) for the payment*  
8           *area, but in no case shall such amount be greater*  
9           *than the sum of—*

10           *(i) the average per capita amount, as de-*  
11           *termined by the Secretary as appropriate*  
12           *for the population eligible to enroll in Medi-*  
13           *care Choice plans in such payment area, for*  
14           *such calendar year that the Secretary would*  
15           *have expended for an individual in such*  
16           *payment area enrolled under the medicare*  
17           *fee-for-service program under parts A and*  
18           *B, plus*

19           *(ii) the amount equal to the actuarial*  
20           *value of deductibles, coinsurance, and co-*  
21           *payments charged an individual for services*  
22           *provided under the medicare fee-for-service*  
23           *program (as determined by the Secretary).*

24           *(C) DETERMINATION OF AMOUNT.—*

1           (i) *IN GENERAL.*—*The Secretary shall*  
2           *determine for each applicable Medicare*  
3           *Choice payment area for each calendar year*  
4           *an amount equal to the average of the bids*  
5           *(weighted based on capacity) submitted to*  
6           *the Secretary under paragraph (1)(A) for*  
7           *that payment area.*

8           (ii) *DISREGARD CERTAIN PLANS.*—*In*  
9           *determining the amount under clause (i),*  
10          *the Secretary may disregard any plan that*  
11          *the Secretary determines would unreason-*  
12          *ably distort the amount determined under*  
13          *such subparagraph.*

14          (4) *ADJUSTMENTS FOR PAYMENTS TO PLAN*  
15          *SPONSORS.*—

16                (A) *IN GENERAL.*—*For purposes of deter-*  
17                *mining the amount of payment under part C of*  
18                *title XVIII of the Social Security Act to a Medi-*  
19                *care Choice organization with respect to any*  
20                *Medicare Choice eligible individual enrolled in a*  
21                *Medicare Choice plan of the sponsor, the stand-*  
22                *ardized payment amount for the applicable Medi-*  
23                *care Choice payment area and the premium*  
24                *charged by the plan sponsor shall be adjusted*  
25                *with respect to such individual for such risk fac-*

1           *tors as age, disability status, gender, institu-*  
2           *tional status, health status, and such other fac-*  
3           *tors as the Secretary determines to be appro-*  
4           *priate, so as to ensure actuarial equivalence. The*  
5           *Secretary may add to, modify, or substitute for*  
6           *such classes, if such changes will improve the de-*  
7           *termination of actuarial equivalence.*

8           *(B) RECOMMENDATIONS.—*

9                     *(i) IN GENERAL.—In addition to any*  
10                    *other duties required by law, the Physician*  
11                    *Payment Review Commission and the Pro-*  
12                    *spective Payment Assessment Commission*  
13                    *(or their successors) shall each develop rec-*  
14                    *ommendations on—*

15                             *(I) the risk factors that the Sec-*  
16                             *retary should use in adjusting the*  
17                             *standardized payment amount and*  
18                             *premium under subparagraph (A), and*

19                             *(II) the methodology that the Sec-*  
20                             *retary should use in determining the*  
21                             *risk factors to be used in adjusting the*  
22                             *standardized payment amount and*  
23                             *premium under subparagraph (A).*

1                   (ii) *TIME.*—*The recommendations de-*  
2                   *scribed in clause (i) shall be developed not*  
3                   *later than January 1, 1999.*

4                   (iii) *ANNUAL REPORT.*—*The Physician*  
5                   *Payment Review Commission and the Pro-*  
6                   *spective Payment Assessment Commission*  
7                   *(or their successors) shall include the rec-*  
8                   *ommendations described in clause (i) in*  
9                   *their respective annual reports to Congress.*

10           (c) *PAYMENTS TO PLAN SPONSORS.*—

11                   (1) *MONTHLY PAYMENTS.*—

12                           (A) *IN GENERAL.*—*Subject to paragraph*  
13                           *(4), for each individual enrolled with a plan*  
14                           *under this subchapter, the Secretary shall make*  
15                           *monthly payments in advance to the Medicare*  
16                           *Choice organization of the Medicare Choice plan*  
17                           *with which the individual is enrolled in an*  
18                           *amount equal to  $\frac{1}{12}$  of the amount determined*  
19                           *under paragraph (2).*

20                           (B) *RETROACTIVE ADJUSTMENTS.*—*The*  
21                           *amount of payment under this paragraph may*  
22                           *be retroactively adjusted to take into account any*  
23                           *difference between the actual number of individ-*  
24                           *uals enrolled in the plan under this section and*  
25                           *the number of such individuals estimated to be*

1           so enrolled in determining the amount of the ad-  
2           vance payment.

3           (2) *AMOUNT OF PAYMENT TO MEDICARE CHOICE*  
4           *PLANS.*—*The amount determined under this para-*  
5           *graph with respect to any individual shall be equal*  
6           *to the sum of—*

7                   (A) *the lesser of—*

8                           (i) *the standardized payment amount*  
9                           *for the applicable Medicare Choice payment*  
10                          *area, as adjusted for such individual under*  
11                          *subsection (a)(4), or*

12                           (ii) *the premium charged by the plan*  
13                          *for such individual, as adjusted for such in-*  
14                          *dividual under section (a)(4), minus*

15                          (B) *the amount such individual paid to the*  
16                          *plan pursuant to section 5043 (relating to 10*  
17                          *percent of the premium).*

18           (3) *PAYMENTS FROM TRUST FUNDS.*—*The pay-*  
19           *ment to a Medicare Choice organization or to a Medi-*  
20           *care Choice account under this section for a medicare-*  
21           *eligible individual shall be made from the Federal*  
22           *Hospital Insurance Trust Fund and the Federal Sup-*  
23           *plementary Medical Insurance Trust Fund in such*  
24           *proportion as the Secretary determines reflects the rel-*  
25           *ative weight that benefits under parts A and B are*

1        *representative of the actuarial value of the total bene-*  
2        *fits under this part.*

3            (4) *LIMITATION ON AMOUNTS AN OUT-OF-PLAN*  
4        *PHYSICIAN OR OTHER ENTITY MAY COLLECT.—A phy-*  
5        *sician or other entity (other than a provider of serv-*  
6        *ices) that does not have a contract establishing pay-*  
7        *ment amounts for services furnished to an individual*  
8        *enrolled under this subchapter with a Medicare*  
9        *Choice organization shall accept as payment in full*  
10       *for services that are furnished to such an individual*  
11       *the amounts that the physician or other entity could*  
12       *collect if the individual were not so enrolled. Any*  
13       *penalty or other provision of law that applies to such*  
14       *a payment with respect to an individual entitled to*  
15       *benefits under this title (but not enrolled with a Medi-*  
16       *care Choice organization under this part) also applies*  
17       *with respect to an individual so enrolled.*

18       (d) *OFFICE OF COMPETITION.—*

19            (1) *ESTABLISHMENT.—There is established with-*  
20        *in the Department of Health and Human Services an*  
21        *office to be known as the ‘Office of Competition’.*

22            (2) *DIRECTOR.—The Secretary shall appoint the*  
23        *Director of the Office of Competition.*

24            (3) *DUTIES.—*

1           (A) *IN GENERAL.*—*The Director shall ad-*  
2           *minister this subchapter and so much of part C*  
3           *of title XVIII of the Social Security Act as re-*  
4           *lates to this subchapter.*

5           (B) *TRANSFER AUTHORITY.*—*The Secretary*  
6           *shall transfer such personnel, administrative*  
7           *support systems, assets, records, funds, and other*  
8           *resources in the Health Care Financing Admin-*  
9           *istration to the Office of Competition as are used*  
10           *in the administration of section 1876 and as*  
11           *may be required to implement the provisions of*  
12           *this part promptly and efficiently.*

13           (4) *USE OF NON-FEDERAL ENTITIES.*—*The Sec-*  
14           *retary shall, to the maximum extent feasible, enter*  
15           *into contracts with appropriate non-Federal entities*  
16           *to carry out activities under this subchapter.*

17 **SEC. 5043. BENEFITS AND BENEFICIARY PREMIUMS.**

18           (a) *BENEFITS PROVIDED TO INDIVIDUALS.*—

19           (1) *BASIC BENEFIT PLAN.*—*Each Medicare*  
20           *Choice plan in an applicable Medicare Choice pay-*  
21           *ment area shall provide to members enrolled under*  
22           *this subchapter, through providers and other persons*  
23           *that meet the applicable requirements of title XVIII*  
24           *of the Social Security Act and part A of title XI of*  
25           *such Act—*

1           (A) those items and services covered under  
2 parts A and B of title XVIII of such Act which  
3 are available to individuals residing in such  
4 area, subject to nominal copayments as deter-  
5 mined by the Secretary,

6           (B) prescription drugs, subject to such lim-  
7 its as established by the Secretary, and

8           (C) additional health services as the Sec-  
9 retary may approve.

10       (2) SUPPLEMENTAL BENEFITS.—

11           (A) IN GENERAL.—Each Medicare Choice  
12 plan may offer any of the optional supplemental  
13 benefit plans described in subparagraph (B) to  
14 an individual enrolled in the basic benefit plan  
15 offered by such organization under this sub-  
16 chapter for an additional premium amount. If  
17 the supplemental benefits are offered only to in-  
18 dividuals enrolled in the sponsor's plan under  
19 this subchapter, the additional premium amount  
20 shall be the same for all enrolled individuals in  
21 the applicable Medicare Choice payment area.  
22 Such benefits may be marketed and sold by the  
23 Medicare Choice organization outside of the en-  
24 rollment process described in part C of title  
25 XVIII of the Social Security Act.

1           (B) *OPTIONAL SUPPLEMENTAL BENEFIT*  
2           *PLANS DESCRIBED.*—*The Secretary shall provide*  
3           *for 2 optional supplemental benefit plans. Such*  
4           *plans shall include such standardized items and*  
5           *services that the Secretary determines must be*  
6           *provided to enrollees of such plans described in*  
7           *order to offer the plans to Medicare Choice eligi-*  
8           *ble individuals.*

9           (C) *LIMITATION.*—*A Medicare Choice orga-*  
10          *nization may not offer an optional benefit plan*  
11          *to a Medicare Choice eligible individual unless*  
12          *such individual is enrolled in a basic benefit*  
13          *plan offered by such organization.*

14          (D) *LIMITATION ON PREMIUM.*—*If a Medi-*  
15          *care Choice organization provides to individuals*  
16          *enrolled in a Medicare Choice plan supplemental*  
17          *benefits described in subparagraph (A), the sum*  
18          *of—*

19                   (i) *the annual premiums for such bene-*  
20                   *fits, plus*

21                   (ii) *the actuarial value of any*  
22                   *deductibles, coinsurance, and copayments*  
23                   *charged with respect to such benefits for the*  
24                   *year,*

1           *shall not exceed the amount that would have been*  
2           *charged for a plan in the applicable Medicare*  
3           *Choice payment area which is not a Medicare*  
4           *Choice plan (adjusted in such manner as the*  
5           *Secretary may prescribe to reflect that only med-*  
6           *icare beneficiaries are enrolled in such plan).*  
7           *The Secretary shall negotiate the limitation*  
8           *under this subparagraph with each plan to*  
9           *which this paragraph applies.*

10           (3) *OTHER RULES.—Rules similar to rules of*  
11           *paragraphs (3) and (4) of section 1852 of the Social*  
12           *Security Act (relating to national coverage deter-*  
13           *minations and secondary payor provisions) shall*  
14           *apply for purposes of this subchapter.*

15           (b) *PREMIUM REQUIREMENTS FOR BENEFICIARIES.—*

16           (1) *PREMIUM DIFFERENTIALS.—If a Medicare*  
17           *Choice eligible individual enrolls in a Medicare*  
18           *Choice plan under this subchapter, the individual*  
19           *shall be required to pay—*

20                   (A) *10 percent of the plan's premium;*

21                   (B) *if the premium of the plan is higher*  
22           *than the standardized payment amount (as de-*  
23           *termined under section 5042), 100 percent of*  
24           *such difference; and*

1           (C) an amount equal to cost-sharing under  
2           the medicare fee-for-service program, except that  
3           such amount shall not exceed the actuarial value  
4           of the deductibles and coinsurance under such  
5           program less the actual value of nominal copay-  
6           ments for benefits under such plan for basic ben-  
7           efits described in subsection (a)(1).

8           (2) *PART B PREMIUM.*—An individual enrolled  
9           in a Medicare Choice plan under this subchapter shall  
10          not be required to pay the premium amount (deter-  
11          mined under section 1839 of the Social Security Act)  
12          under part B of title XVIII of such Act for so long  
13          as such individual is so enrolled.

## 14           **PART II—INFORMATION AND QUALITY**

### 15                   **STANDARDS**

#### 16                           **Subpart A—Information**

#### 17   **SEC. 5044. INFORMATION REQUIREMENTS.**

18          (a) *IN GENERAL.*—The Secretary shall provide that in  
19          the case of a demonstration plan conducted under part I,  
20          the information and comparative reports described in this  
21          section shall be used in lieu of that provided under part  
22          C of title XVIII of the Social Security Act.

23          (b) *SECRETARY’S MATERIALS; CONTENTS.*—The notice  
24          and informational materials mailed by the Secretary under  
25          this part shall be written and formatted in the most easily

1 *understandable manner possible, and shall include, at a*  
2 *minimum, the following:*

3 (1) *GENERAL INFORMATION.—General informa-*  
4 *tion with respect to coverage under this part during*  
5 *the next calendar year, including—*

6 (A) *the part B premium rates that will be*  
7 *charged for part B coverage, and a statement of*  
8 *the fact that enrollees in demonstration plans are*  
9 *not required to pay such premium,*

10 (B) *the deductible, copayment, and coinsur-*  
11 *ance amounts for coverage under the traditional*  
12 *medicare program,*

13 (C) *a description of the coverage under the*  
14 *traditional medicare program and any changes*  
15 *in coverage under the program from the prior*  
16 *year,*

17 (D) *a description of the individual's medi-*  
18 *care payment area, and the standardized medi-*  
19 *care payment amount available with respect to*  
20 *such individual,*

21 (E) *information and instructions on how to*  
22 *enroll in a demonstration plan,*

23 (F) *the right of each demonstration plan*  
24 *sponsor by law to terminate or refuse to renew*  
25 *its contract and the effect the termination or*

1           *nonrenewal of its contract may have on individ-*  
2           *uals enrolled with the demonstration plan under*  
3           *this part,*

4           (G) *appeal rights of enrollees, including the*  
5           *right to address grievances to the Secretary or*  
6           *the applicable external review entity, and*

7           (H) *the benefits offered by plans in basic*  
8           *benefit plans under section 1895H(a), and how*  
9           *those benefits differ from the benefits offered*  
10          *under parts A and B.*

11          (2) *COMPARATIVE REPORT.—A copy of the most*  
12          *recent comparative report (as established by the Sec-*  
13          *retary under subsection (c)) for the demonstration*  
14          *plans in the individual’s medicare payment area.*

15          (c) *COMPARATIVE REPORT.—*

16           (1) *IN GENERAL.—The Secretary shall develop*  
17           *an understandable standardized comparative report*  
18           *on the demonstration plans offered by demonstration*  
19           *plan sponsors, that will assist demonstration eligible*  
20           *individuals in their decisionmaking regarding medi-*  
21           *cal care and treatment by allowing such individuals*  
22           *to compare the demonstration plans that such indi-*  
23           *viduals are eligible to enroll with. In developing such*  
24           *report the Secretary shall consult with outside organi-*  
25           *zations, including groups representing the elderly,*

1 *demonstration plan sponsors, providers of services,*  
2 *and physicians and other health care professionals, in*  
3 *order to assist the Secretary in developing the report.*

4 (2) *REPORT.—The report described in paragraph*  
5 *(1) shall include a comparison for each demonstration*  
6 *plan of—*

7 (A) *the plan’s medicare service area;*

8 (B) *coverage by the plan of emergency serv-*  
9 *ices and urgently needed care;*

10 (C) *the amount of any deductibles, coinsur-*  
11 *ance, or any monetary limits on benefits;*

12 (D) *the number of individuals who*  
13 *disenrolled from the plan within 3 months of en-*  
14 *rollment during the previous fiscal year (exclud-*  
15 *ing individuals whose disenrollment was due to*  
16 *death or moving outside of the plan’s service*  
17 *area) stated as percentages of the total number*  
18 *of individuals in the plan;*

19 (E) *process, outcome, and enrollee satisfac-*  
20 *tion measures, as recommended by the Quality*  
21 *Advisory Institute as established under section*  
22 *5044B;*

23 (F) *information on access and quality of*  
24 *services obtained from the analysis described in*  
25 *section 5044B;*

1           (G) the procedures used by the plan to control utilization of services and expenditures, including any financial incentives;

2           (H) the number of applications during the previous fiscal year requesting that the plan cover or pay for certain medical services that were denied by the plan (and the number of such denials that were subsequently reversed by the plan), stated as a percentage of the total number of applications during such period requesting that the plan cover such services;

3           (I) the number of times during the previous fiscal year (after an appeal was filed with the Secretary) that the Secretary upheld or reversed a denial of a request that the plan cover certain medical services;

4           (J) the restrictions (if any) on payment for services provided outside the plan's health care provider network;

5           (K) the process by which services may be obtained through the plan's health care provider network;

6           (L) coverage for out-of-area services;

1           (M) any exclusions in the types of health  
2           care providers participating in the plan's health  
3           care provider network;

4           (N) whether the plan is, or has within the  
5           past two years been, out-of-compliance with any  
6           requirements of this part (as determined by the  
7           Secretary);

8           (O) the plan's premium price for the basic  
9           benefit plan submitted under part C of title  
10          XVIII of the Social Security Act, an indication  
11          of the difference between such premium price and  
12          the standardized medicare payment amount, and  
13          the portion of the premium an individual must  
14          pay out of pocket;

15          (P) whether the plan offers any of the op-  
16          tional supplemental benefit plans, and if so, the  
17          plan's premium price for such benefits; and

18          (Q) any additional information that the  
19          Secretary determines would be helpful for dem-  
20          onstration eligible individuals to compare the  
21          demonstration plans that such individuals are  
22          eligible to enroll with.

23          (3) *ADDITIONAL INFORMATION.*—The compara-  
24          tive report shall also include—

1           (A) a comparison of each demonstration  
2 plan to the fee-for-service program under parts A  
3 and B of title XVIII of the Social Security Act;

4           (B) an explanation of medicare supple-  
5 mental policies under section 1882 of such Act  
6 and how to obtain specific information regard-  
7 ing such policies; and

8           (C) a phone number for each demonstration  
9 plan that will enable demonstration eligible indi-  
10 viduals to call to receive a printed listing of all  
11 health care providers participating in the plan's  
12 health care provider network.

13           (4) UPDATE.—The Secretary shall, not less than  
14 annually, update each comparative report.

15           (5) DEFINITIONS.—In this subsection—

16           (A) HEALTH CARE PROVIDER.—The term  
17 “health care provider” means anyone licensed  
18 under State law to provide health care services  
19 under part A or B.

20           (B) NETWORK.—The term “network”  
21 means, with respect to a demonstration plan  
22 sponsor, the health care providers who have en-  
23 tered into a contract or agreement with the plan  
24 sponsor under which such providers are obligated  
25 to provide items, treatment, and services under

1           *this section to individuals enrolled with the plan*  
2           *sponsor under this part.*

3           (C) *OUT-OF-NETWORK.*—*The term “out-of-*  
4           *network” means services provided by health care*  
5           *providers who have not entered into a contract*  
6           *agreement with the demonstration plan sponsor*  
7           *under which such providers are obligated to pro-*  
8           *vide items, treatment, and services under this*  
9           *section to individuals enrolled with the plan*  
10          *sponsor under this part.*

11          (6) *COST SHARING.*—*Each demonstration plan*  
12          *sponsor shall pay to the Secretary its pro rata share*  
13          *of the estimated costs incurred by the Secretary in*  
14          *carrying out the requirements of this section and sec-*  
15          *tion 4360 of the Omnibus Reconciliation Act of 1990.*  
16          *There are hereby appropriated to the Secretary the*  
17          *amount of the payments under this paragraph for*  
18          *purposes of defraying the cost described in the preced-*  
19          *ing sentence. Such amounts shall remain available*  
20          *until expended.*

21          ***Subpart B—Quality in Demonstration Plans***

22          ***SEC. 5044A. DEFINITIONS.***

23          *In this subpart:*

1           (1) *COMPARATIVE REPORT.*—The term “com-  
2           parative report” means the comparative report devel-  
3           oped under section 5044.

4           (2) *DIRECTOR.*—The term “Director” means the  
5           Director of the Office of Competition within the De-  
6           partment of Health and Human Services as estab-  
7           lished under part I.

8           (3) *MEDICARE PROGRAM.*—The term “medicare  
9           program” means the program of health care benefits  
10          provided under title XVIII of the Social Security Act  
11          (42 U.S.C. 1395 et seq.).

12          (4) *DEMONSTRATION PLAN.*—The term “dem-  
13          onstration plan” means a plan established under part  
14          I.

15          (5) *DEMONSTRATION PLAN SPONSOR.*—The term  
16          “demonstration plan sponsor” means a sponsor of a  
17          demonstration plan.

18 **SEC. 5044B. QUALITY ADVISORY INSTITUTE.**

19          (a) *ESTABLISHMENT.*—There is established an Insti-  
20          tute to be known as the “Quality Advisory Institute” (in  
21          this subpart referred to as the “Institute”) to make rec-  
22          ommendations to the Director concerning licensing and cer-  
23          tification criteria and comparative measurement methods  
24          under this subpart.

25          (b) *MEMBERSHIP.*—

1           (1) *COMPOSITION.*—*The Institute shall be com-*  
2           *posed of 5 members to be appointed by the Director*  
3           *from among individuals who have demonstrable ex-*  
4           *pertise in—*

5                     *(A) health care quality measurement;*

6                     *(B) health plan certification criteria set-*  
7           *ting;*

8                     *(C) the analysis of information that is use-*  
9           *ful to consumers in making choices regarding*  
10           *health coverage options, health plans, health care*  
11           *providers, and decisions regarding health treat-*  
12           *ments; and*

13                    *(D) the analysis of health plan operations.*

14           (2) *TERMS AND VACANCIES.*—*The members of the*  
15           *Institute shall be appointed for 5-year terms with the*  
16           *terms of the initial members staggered as determined*  
17           *appropriate by the Director. Vacancies shall be filled*  
18           *in a manner provided for by the Director.*

19           (c) *DUTIES.*—*The Institute shall—*

20                    (1) *not later than 1 year after the date on which*  
21           *all members of the Institute are appointed under sub-*  
22           *section (b)(2), provide advice to the Director concern-*  
23           *ing the initial set of criteria for the certification of*  
24           *demonstration plans;*

1           (2) analyze the use of the criteria for the certifi-  
2           cation of demonstration plans implemented by the Di-  
3           rector under this subpart and recommend modifica-  
4           tions in such criteria as needed;

5           (3) analyze the use of the comparative measure-  
6           ments implemented by the Director in developing  
7           comparative reports and recommend modifications in  
8           such measurements as needed;

9           (4) perform, or enter into contracts with other  
10          entities for the performance of, an analysis of access  
11          to services and clinical outcomes based on patient en-  
12          counter data;

13          (5) enter into contracts with other entities for the  
14          development of such criteria and measurements and  
15          to otherwise carry out its duties under this section;  
16          and

17          (6) carry out any other activities determined ap-  
18          propriate by the Institute to carry out its duties  
19          under this section.

20          The analysis described in paragraph (4) should focus on  
21          conditions and procedures of significance to beneficiaries  
22          under the medicare program, as determined by the Insti-  
23          tute, and should be designed, and the results summarized,  
24          in a manner that facilitates comparisons across health  
25          plans.

1 **SEC. 5044C. DUTIES OF DIRECTOR.**

2 (a) *IN GENERAL.*—*The Director shall—*

3 (1) *adopt, adapt, or develop criteria in accord-*  
4 *ance with sections 5044F through 5044I to be used in*  
5 *the licensing of certifying entities and in the certifi-*  
6 *cation of demonstration plans, including any mini-*  
7 *imum criteria needed for the operation of demonstra-*  
8 *tion plans during the transition period described in*  
9 *section 5044F(c);*

10 (2) *issue licenses to certifying entities that meet*  
11 *the criteria developed under paragraph (1) for the*  
12 *purpose of enabling such entities to certify demonstra-*  
13 *tion plans in accordance with this subpart;*

14 (3) *develop comparative health care measures in*  
15 *addition to those implemented by the Director in de-*  
16 *veloping comparative reports in order to guide*  
17 *consumer choice under the medicare program and to*  
18 *improve the delivery of quality health care under such*  
19 *program;*

20 (4) *develop procedures, consistent with section*  
21 *5044A, for the dissemination of certification and com-*  
22 *parative quality information provided to the Director;*

23 (5) *contract with an independent entity for the*  
24 *conduct of audits concerning certification and quality*  
25 *measurement and require that as part of the certifi-*  
26 *cation process performed by licensed certification en-*

1 *tities that there include an onsite evaluation, using*  
2 *performance-based standards, of the providers of items*  
3 *and services under a demonstration plan;*

4 *(6) at least quarterly, meet jointly with the*  
5 *Agency for Health Care Policy and Research to re-*  
6 *view innovative health outcomes measures, new meas-*  
7 *urement processes, and other matters determined ap-*  
8 *propriate by the Director;*

9 *(7) at least annually, meet with the Institute*  
10 *concerning certification criteria;*

11 *(8) not later than January 1, 1999, and each*  
12 *January 1 thereafter, prepare and submit to dem-*  
13 *onstration plan sponsors and to Congress, a report*  
14 *concerning the activities of the Director for the pre-*  
15 *vious year;*

16 *(9) advise the President and Congress concerning*  
17 *health insurance and health care provided under dem-*  
18 *onstration plans and make recommendations concern-*  
19 *ing measures that may be implemented to protect the*  
20 *health of all enrollees in demonstration plans; and*

21 *(10) carry out other activities determined appro-*  
22 *priate by the Director.*

23 *(b) RULE OF CONSTRUCTION.—Nothing in this section*  
24 *shall be construed to limit the authority of the Director or*  
25 *the Secretary of Health and Human Services with respect*

1 *to requirements other than those applied under this subpart*  
2 *with respect to demonstration plans.*

3 **SEC. 5044D. COMPLIANCE.**

4 (a) *IN GENERAL.*—*Not later than January 1, 1999,*  
5 *the Director shall ensure that a demonstration plan may*  
6 *not be offered unless it has been certified in accordance with*  
7 *this subpart.*

8 (b) *CONTRACTS OR REIMBURSEMENTS.*—*In carrying*  
9 *out subsection (a), the Director—*

10 (1) *may not enter into a contract with a dem-*  
11 *onstration plan sponsor for the provision of a dem-*  
12 *onstration plan unless the demonstration plan is cer-*  
13 *tified in accordance with this subpart;*

14 (2) *may not reimburse a demonstration plan*  
15 *sponsor for items and services provided under a dem-*  
16 *onstration plan unless the demonstration plan is cer-*  
17 *tified in accordance with this subpart; and*

18 (3) *shall, after providing notice to the dem-*  
19 *onstration plan sponsor operating a demonstration*  
20 *plan and an opportunity for such demonstration plan*  
21 *to be certified, and in accordance with any applicable*  
22 *grievance and appeals procedures under section*  
23 *5044I, terminate any contract with a demonstration*  
24 *plan sponsor for the operation of a demonstration*

1        *plan if such demonstration plan is not certified in ac-*  
2        *cordance with this subpart.*

3        **SEC. 5044E. PAYMENTS FOR VALUE.**

4        (a) *ESTABLISHMENT OF PROGRAM.*—*The Director*  
5        *shall establish a program under which payments are made*  
6        *to various demonstration plans to reward such plans for*  
7        *meeting or exceeding quality targets.*

8        (b) *PERFORMANCE MEASURES.*—*In carrying out the*  
9        *program under subsection (a), the Director shall establish*  
10       *broad categories of quality targets and performance meas-*  
11       *ures. Such targets and measures shall be designed to permit*  
12       *the Director to determine whether a demonstration plan is*  
13       *being operated in a manner consistent with this subpart.*

14       (c) *USE OF FUNDS.*—

15            (1) *IN GENERAL.*—*The Secretary shall withhold*  
16        *0.50 percent from any payment that a demonstration*  
17        *plan sponsor receives with respect to an individual*  
18        *enrolled with such plan under part I.*

19            (2) *PAYMENTS.*—*The Director shall use amounts*  
20        *collected under paragraph (1) to make annual pay-*  
21        *ments to those demonstration plans that have been de-*  
22        *termined by the Director to meet or exceed the quality*  
23        *targets and performance measures established under*  
24        *subsection (b). Any amounts collected under such*  
25        *paragraph for a fiscal year and remaining available*

1       *after payments are made under subsection (d), shall*  
2       *be used for deficit reduction.*

3       *(d) AMOUNT OF PAYMENT.—*

4             *(1) FORMULA.—The amount of any payment*  
5       *made to a demonstration plan under this section shall*  
6       *be determined in accordance with a formula to be de-*  
7       *veloped by the Director. The formula shall ensure that*  
8       *a payment made to a demonstration plan under this*  
9       *section be in an amount equal to—*

10            *(A) with respect to a demonstration plan*  
11       *that is determined to be in the first quintile, 1*  
12       *percent of the amount allocated to the plan*  
13       *under this subpart;*

14            *(B) with respect to a demonstration plan*  
15       *that is determined to be in the second quintile,*  
16       *0.75 percent of the amount allocated to the plan*  
17       *under this subpart;*

18            *(C) with respect to a demonstration plan*  
19       *that is determined to be in the third quintile,*  
20       *0.50 percent of the amount allocated by the plan*  
21       *under this subpart; and*

22            *(D) with respect to a demonstration plan*  
23       *that is determined to be in the fourth quintile,*  
24       *0.25 percent of the amount allocated by the plan*  
25       *under this subpart.*

1           (2) *NO PAYMENT.*—A demonstration plan that is  
2           determined by the Director to be in the fifth quintile  
3           shall not be eligible to receive a payment under this  
4           section.

5           (3) *DETERMINATION OF QUINTILES.*—Not later  
6           than April 30 of each calendar year, the Director  
7           shall rank each demonstration plan based on the per-  
8           formance of the plan during the preceding year as de-  
9           termined using the quality targets and performance  
10          measures established under subsection (b). Such  
11          rankings shall be divided into quintiles with the first  
12          quintile containing the highest ranking plans and the  
13          fifth quintile containing the lowest ranking plans.  
14          Each such quintile shall contain plans that in the ag-  
15          gregate cover an equal number of beneficiaries as  
16          compared to another quintile.

17 **SEC. 5044F. CERTIFICATION REQUIREMENT.**

18          (a) *IN GENERAL.*—To be eligible to enter into a con-  
19          tract with the Director to enroll individuals in a dem-  
20          onstration plan, a demonstration plan sponsor shall par-  
21          ticipate in the certification process and have the demonstra-  
22          tion plans offered by such plan sponsor certified in accord-  
23          ance with this subpart.

24          (b) *EFFECT OF MERGERS OR PURCHASE.*—

1           (1) *CERTIFIED PLANS.*—Where 2 or more dem-  
2           onstration plan sponsors offering certified demonstra-  
3           tion plans are merged or where 1 such plan sponsor  
4           is purchased by another plan sponsor, the resulting  
5           plan sponsor may continue to operate and enroll in-  
6           dividuals for coverage under the demonstration plan  
7           as if the demonstration plan involved were certified.  
8           The certification of any resulting demonstration plan  
9           shall be reviewed by the applicable certifying entity to  
10          ensure the continued compliance of the contract with  
11          the certification criteria.

12          (2) *NONCERTIFIED PLANS.*—The certification of  
13          a demonstration plan shall be terminated upon the  
14          merger of the demonstration plan sponsor involved or  
15          the purchase of the plan sponsor by another entity  
16          that does not offer any certified demonstration plans.  
17          Any demonstration plans offered through the resulting  
18          plan sponsor may reapply for certification after the  
19          completion of the merger or purchase.

20          (c) *TRANSITION FOR NEW PLANS.*—

21          (1) *IN GENERAL.*—A demonstration plan that  
22          has not provided health insurance coverage to indi-  
23          viduals prior to the effective date of this Act shall be  
24          permitted to contract with the Director and operate  
25          and enroll individuals under a demonstration plan

1       *without being certified for the 2-year period begin-*  
2       *ning on the date on which such demonstration plan*  
3       *sponsor enrolls the first individual in the demonstra-*  
4       *tion plan. Such demonstration plan must be certified*  
5       *in order to continue to provide coverage under the*  
6       *contract after such period.*

7               (2) *LIMITATION.*—*A new demonstration plan de-*  
8       *scribed in paragraph (1) shall, during the period re-*  
9       *ferred to in paragraph (1) prior to certification, com-*  
10       *ply with the minimum criteria developed by the Di-*  
11       *rector under section 5044F(a)(1).*

12       **SEC. 5044G. LICENSING OF CERTIFICATION ENTITIES.**

13               (a) *IN GENERAL.*—*The Director shall develop proce-*  
14       *dures for the licensing of entities to certify demonstration*  
15       *plans under this subpart.*

16               (b) *REQUIREMENTS.*—*The procedures developed under*  
17       *subsection (a) shall ensure that—*

18                       (1) *to be licensed under this section a certifi-*  
19       *cation entity shall apply the requirements of this sub-*  
20       *part to demonstration plans seeking certification;*

21                       (2) *a certification entity has procedures in place*  
22       *to suspend or revoke the certification of a demonstra-*  
23       *tion plan that is failing to comply with the certifi-*  
24       *cation requirements; and*

1           (3) *the Director will give priority to licensing*  
2           *entities that are accrediting health plans that con-*  
3           *tract with the Director on the date of enactment of*  
4           *this Act.*

5 **SEC. 5044H. CERTIFICATION CRITERIA.**

6           (a) *ESTABLISHMENT.*—*The Director shall establish*  
7           *minimum criteria under this section to be used by licensed*  
8           *certifying entities in the certification of demonstration*  
9           *plans under this subpart.*

10          (b) *REQUIREMENTS.*—*Criteria established by the Di-*  
11          *rector under subsection (a) shall require that, in order to*  
12          *be certified, a demonstration plan shall comply at a mini-*  
13          *mum with the following:*

14               (1) *QUALITY IMPROVEMENT PLAN.*—*The dem-*  
15               *onstration plan shall implement a total quality im-*  
16               *provement plan that is designed to improve the clini-*  
17               *cal and administrative processes of the demonstration*  
18               *plan on an ongoing basis and demonstrate that im-*  
19               *provements in the quality of items and services pro-*  
20               *vided under the demonstration plan have occurred as*  
21               *a result of such improvement plan.*

22               (2) *PROVIDER CREDENTIALS.*—*The demonstra-*  
23               *tion plan shall compile and annually provide to the*  
24               *licensed certifying entity documentation concerning*  
25               *the credentials of the hospitals, physicians, and other*

1 *health care professionals reimbursed under the dem-*  
2 *onstration plan.*

3 (3) *COMPARATIVE INFORMATION.*—*The dem-*  
4 *onstration plan shall compile and provide, as re-*  
5 *quested by the Secretary of Health and Human Serv-*  
6 *ices, to the such Secretary the information necessary*  
7 *to develop a comparative report.*

8 (4) *ENCOUNTER DATA.*—*The demonstration plan*  
9 *shall maintain patient encounter data in accordance*  
10 *with standards established by the Institute, and shall*  
11 *provide these data, as requested by the Institute, to*  
12 *the Institute in support of conducting the analysis de-*  
13 *scribed in section 5044B(c)(4).*

14 (5) *OTHER REQUIREMENTS.*—*The demonstration*  
15 *plan shall comply with other requirements authorized*  
16 *under this subpart and implemented by the Director.*

17 **SEC. 5044I. GRIEVANCE AND APPEALS.**

18 *The Director shall develop grievance and appeals pro-*  
19 *cedures under which a demonstration plan that is denied*  
20 *certification under this subpart may appeal such denial to*  
21 *the Director.*

22 ***Subchapter B—Other Projects***

23 **SEC. 5045. MEDICARE ENROLLMENT DEMONSTRATION**  
24 **PROJECT.**

25 (a) *DEMONSTRATION PROJECT.*—

1           (1) *ESTABLISHMENT.*—*The Secretary of Health*  
2 *and Human Services (in this section referred to as*  
3 *the “Secretary”)* shall implement a demonstration  
4 *project (in this section referred to as the “project”)* for  
5 *the purpose of evaluating the use of a third-party con-*  
6 *tractor to conduct the Medicare Choice plan enroll-*  
7 *ment and disenrollment functions, as described in*  
8 *part C of the Social Security Act (as added by section*  
9 *5001 of this Act), in an area.*

10           (2) *CONSULTATION.*—*Before implementing the*  
11 *project under this section, the Secretary shall consult*  
12 *with affected parties on—*

13                   (A) *the design of the project;*

14                   (B) *the selection criteria for the third-party*  
15 *contractor; and*

16                   (C) *the establishment of performance stand-*  
17 *ards, as described in paragraph (3).*

18           (3) *PERFORMANCE STANDARDS.*—

19                   (A) *IN GENERAL.*—*The Secretary shall es-*  
20 *tablish performance standards for the accuracy*  
21 *and timeliness of the Medicare Choice plan en-*  
22 *rollment and disenrollment functions performed*  
23 *by the third-party contractor.*

24                   (B) *NONCOMPLIANCE.*—*If the Secretary de-*  
25 *termines that a third-party contractor is out of*

1           *compliance with the performance standards es-*  
2           *tablished under subparagraph (A), such enroll-*  
3           *ment and disenrollment functions shall be per-*  
4           *formed by the Medicare Choice plan until the*  
5           *Secretary appoints a new third-party contractor.*

6           (C) *DISPUTE.*—*In the event that there is a*  
7           *dispute between the Secretary and a Medicare*  
8           *Choice plan regarding whether or not the third-*  
9           *party contractor is in compliance with the per-*  
10          *formance standards, such enrollment and*  
11          *disenrollment functions shall be performed by the*  
12          *Medicare Choice plan.*

13          (b) *REPORT TO CONGRESS.*—*The Secretary shall peri-*  
14          *odically report to Congress on the progress of the project*  
15          *conducted pursuant to this section.*

16          (c) *WAIVER AUTHORITY.*—*The Secretary shall waive*  
17          *compliance with the requirements of part C of the Social*  
18          *Security Act (as amended by section 5001 of this Act) to*  
19          *such extent and for such period as the Secretary determines*  
20          *is necessary to conduct the project.*

21          (d) *DURATION.*—*A demonstration project under this*  
22          *section shall be conducted for a 3-year period.*

23          (e) *SEPARATE FROM OTHER DEMONSTRATION*  
24          *PROJECTS.*—*A project implemented by the Secretary under*

1 *this section shall not be conducted in conjunction with any*  
2 *other demonstration project.*

3 **SEC. 5046. MEDICARE COORDINATED CARE DEMONSTRATION PROJECT.**  
4

5 (a) *DEMONSTRATION PROJECTS.—*

6 (1) *IN GENERAL.—The Secretary of Health and*  
7 *Human Services (in this section referred to as the*  
8 *“Secretary”)* shall conduct demonstration projects for  
9 *the purpose of evaluating methods, such as case man-*  
10 *agement and other models of coordinated care, that—*

11 (A) *improve the quality of items and serv-*  
12 *ices provided to target individuals; and*

13 (B) *reduce expenditures under the medicare*  
14 *program under title XVIII of the Social Security*  
15 *Act (42 U.S.C. 1395 et seq.) for items and serv-*  
16 *ices provided to target individuals.*

17 (2) *TARGET INDIVIDUAL DEFINED.—In this sec-*  
18 *tion, the term “target individual” means an individ-*  
19 *ual that has a chronic illness, as defined and identi-*  
20 *fied by the Secretary, and is enrolled under the fee-*  
21 *for-service program under parts A and B of title*  
22 *XVIII of the Social Security Act (42 U.S.C. 1395c et*  
23 *seq.; 1395j et seq.).*

24 (b) *PROGRAM DESIGN.—*

1           (1) *INITIAL DESIGN.*—*The Secretary shall evalu-*  
2           *ate best practices in the private sector of methods of*  
3           *coordinated care for a period of 1 year and design the*  
4           *demonstration project based on such evaluation.*

5           (2) *NUMBER AND PROJECT AREAS.*—*Not later*  
6           *than 2 years after the date of enactment of this Act,*  
7           *the Secretary shall implement at least 9 demonstra-*  
8           *tion projects, including—*

9                     (A) *6 projects in urban areas; and*

10                    (B) *3 projects in rural areas.*

11           (3) *EXPANSION OF PROJECTS; IMPLEMENTATION*  
12           *OF DEMONSTRATION PROJECT RESULTS.*—

13                    (A) *EXPANSION OF PROJECTS.*—*If the ini-*  
14                    *tial report under subsection (c) contains an eval-*  
15                    *uation that demonstration projects—*

16                             (i) *reduce expenditures under the medi-*  
17                             *care program; or*

18                             (ii) *do not increase expenditures under*  
19                             *the medicare program and increase the*  
20                             *quality of health care services provided to*  
21                             *target individuals and satisfaction of bene-*  
22                             *ficiaries and health care providers;*

23                    *the Secretary shall continue the existing dem-*  
24                    *onstration projects and may expand the number*  
25                    *of demonstration projects.*

1                   (B) *IMPLEMENTATION OF DEMONSTRATION*  
2                   *PROJECT RESULTS.*—*If a report under subsection*  
3                   *(c) contains an evaluation as described in sub-*  
4                   *paragraph (A), the Secretary may issue regula-*  
5                   *tions to implement, on a permanent basis, the*  
6                   *components of the demonstration project that are*  
7                   *beneficial to the medicare program.*

8                   (c) *REPORT TO CONGRESS.*—

9                   (1) *IN GENERAL.*—*Not later than 2 years after*  
10                  *the Secretary implements the initial demonstration*  
11                  *projects under this section, and biannually thereafter,*  
12                  *the Secretary shall submit to Congress a report re-*  
13                  *garding the demonstration projects conducted under*  
14                  *this section.*

15                  (2) *CONTENTS OF REPORT.*—*The report in para-*  
16                  *graph (1) shall include the following:*

17                         (A) *A description of the demonstration*  
18                         *projects conducted under this section.*

19                         (B) *An evaluation of—*

20                                 (i) *the cost-effectiveness of the dem-*  
21                                 *onstration projects;*

22                                 (ii) *the quality of the health care serv-*  
23                                 *ices provided to target individuals under*  
24                                 *the demonstration projects; and*

1                   (iii) beneficiary and health care pro-  
2                   vider satisfaction under the demonstration  
3                   project.

4                   (C) Any other information regarding the  
5                   demonstration projects conducted under this sec-  
6                   tion that the Secretary determines to be appro-  
7                   priate.

8                   (d) *WAIVER AUTHORITY.*—The Secretary shall waive  
9                   compliance with the requirements of titles XI, XVIII, and  
10                  XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395  
11                  et seq., 1396 et seq.) to such extent and for such period as  
12                  the Secretary determines is necessary to conduct demonstra-  
13                  tion projects.

14                  (e) *FUNDING.*—

15                   (1) *DEMONSTRATION PROJECTS.*—

16                   (A) *IN GENERAL.*—The Secretary shall pro-  
17                   vide for the transfer from the Federal Hospital  
18                   Insurance Trust Fund and the Federal Supple-  
19                   mentary Insurance Trust Fund under title  
20                   XVIII of the Social Security Act (42 U.S.C.  
21                   1395i, 1395t), in such proportions as the Sec-  
22                   retary determines to be appropriate, of such  
23                   funds as are necessary for the costs of carrying  
24                   out the demonstration projects under this section.

1           (B) *LIMITATION.*—*In conducting the dem-*  
 2           *onstration project under this section, the Sec-*  
 3           *retary shall ensure that the aggregate payments*  
 4           *made by the Secretary do not exceed the amount*  
 5           *which the Secretary would have paid if the dem-*  
 6           *onstration projects under this section were not*  
 7           *implemented.*

8           (2) *EVALUATION AND REPORT.*—*There are au-*  
 9           *thorized to be appropriated such sums as are nec-*  
 10          *essary for the purpose of developing and submitting*  
 11          *the report to Congress under subsection (c).*

12 **SEC. 5047. ESTABLISHMENT OF MEDICARE REIMBURSE-**  
 13                                   **MENT DEMONSTRATION PROJECTS.**

14           *Title XVIII (42 U.S.C. 1395 et seq.) (as amended by*  
 15           *section 5343) is amended by adding at the end the follow-*  
 16           *ing:*

17           “*MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR*  
 18                                   *VETERANS*”

19           “*SEC. 1896. (a) DEFINITIONS.*—*In this section:*

20                           “(1) *ADMINISTERING SECRETARIES.*—*The term*  
 21           *‘administering Secretaries’ means the Secretary and*  
 22           *the Secretary of Veterans Affairs acting jointly.*

23                           “(2) *DEMONSTRATION PROJECT; PROJECT.*—*The*  
 24           *terms ‘demonstration project’ and ‘project’ mean the*  
 25           *demonstration project carried out under this section.*

1           “(3) *MILITARY RETIREE.*—*The term ‘military*  
2           *retiree’ means a member or former member of the*  
3           *Armed Forces who is entitled to retired pay.*

4           “(4) *TARGETED MEDICARE-ELIGIBLE VET-*  
5           *ERAN.*—*The term ‘targeted medicare-eligible veteran’*  
6           *means an individual who—*

7                   “(A) *is a veteran (as defined in section*  
8                   *101(2) of title 38, United States Code) and is de-*  
9                   *scribed in section 1710(a)(3) of title 38, United*  
10                   *States Code; and*

11                   “(B) *is entitled to benefits under part A of*  
12                   *this title and is enrolled under part B of this*  
13                   *title.*

14           “(5) *TRUST FUNDS.*—*The term ‘trust funds’*  
15           *means the Federal Hospital Insurance Trust Fund es-*  
16           *tablished in section 1817 and the Federal Supple-*  
17           *mentary Medical Insurance Trust Fund established in*  
18           *section 1841.*

19           “(b) *DEMONSTRATION PROJECT.*—

20                   “(1) *IN GENERAL.*—

21                   “(A) *ESTABLISHMENT.*—*The administering*  
22                   *Secretaries are authorized to establish a dem-*  
23                   *onstration project (under an agreement entered*  
24                   *into by the administering Secretaries) under*  
25                   *which the Secretary shall reimburse the Sec-*

1           *retary of Veterans Affairs, from the trust funds,*  
2           *for medicare health care services furnished to cer-*  
3           *tain targeted medicare-eligible veterans.*

4           “(B) *AGREEMENT.—The agreement entered*  
5           *into under subparagraph (A) shall include at a*  
6           *minimum—*

7                   “(i) *a description of the benefits to be*  
8                   *provided to the participants of the dem-*  
9                   *onstration project established under this sec-*  
10                  *tion;*

11                  “(ii) *a description of the eligibility*  
12                  *rules for participation in the demonstration*  
13                  *project, including any criteria established*  
14                  *under subsection (c) and any cost sharing*  
15                  *under subsection (d);*

16                  “(iii) *a description of how the dem-*  
17                  *onstration project will satisfy the require-*  
18                  *ments under this title;*

19                  “(iv) *a description of the sites selected*  
20                  *under paragraph (2);*

21                  “(v) *a description of how reimburse-*  
22                  *ment and maintenance of effort require-*  
23                  *ments under subsection (l) will be imple-*  
24                  *mented in the demonstration project; and*

1           “(vi) a statement that the Secretary  
2           shall have access to all data of the Depart-  
3           ment of Veterans Affairs that the Secretary  
4           determines is necessary to conduct inde-  
5           pendent estimates and audits of the mainte-  
6           nance of effort requirement, the annual rec-  
7           onciliation, and related matters required  
8           under the demonstration project.

9           “(2) NUMBER OF SITES.—The administering  
10          Secretaries shall establish a plan for the selection of  
11          up to 12 medical centers under the jurisdiction of the  
12          Secretary of Veterans Affairs and located in geo-  
13          graphically dispersed locations to participate in the  
14          project.

15          “(3) GENERAL CRITERIA.—The selection plan  
16          shall favor selection of those medical centers that are  
17          suited to serve targeted medicare-eligible individuals  
18          because—

19                 “(A) there is a high potential demand by  
20                 targeted medicare-eligible veterans for their serv-  
21                 ices;

22                 “(B) they have sufficient capability in bill-  
23                 ing and accounting to participate;

24                 “(C) they have favorable indicators of qual-  
25                 ity of care, including patient satisfaction;

1           “(D) they deliver a range of services re-  
2           quired by targeted medicare-eligible veterans;  
3           and

4           “(E) they meet other relevant factors identi-  
5           fied in the plan.

6           “(4) *MEDICAL CENTER NEAR CLOSED BASE.*—  
7           *The administering Secretaries shall endeavor to in-*  
8           *clude at least 1 medical center that is in the same*  
9           *catchment area as a military medical facility which*  
10          *was closed pursuant to either of the following laws:*

11           “(A) *The Defense Base Closure and Re-*  
12          *alignment Act of 1990.*

13           “(B) *Title II of the Defense Authorization*  
14          *Amendments and Base Closure and Realignment*  
15          *Act.*

16          “(5) *RESTRICTION.*—*No new facilities will be*  
17          *built or expanded with funds from the demonstration*  
18          *project.*

19          “(6) *DURATION.*—*The administering Secretaries*  
20          *shall conduct the demonstration project during the 3-*  
21          *year period beginning on January 1, 1998.*

22          “(c) *VOLUNTARY PARTICIPATION.*—*Participation of*  
23          *targeted medicare-eligible veterans in the demonstration*  
24          *project shall be voluntary, subject to the capacity of partici-*  
25          *pating medical centers and the funding limitations speci-*

1 *fied in subsection (l), and shall be subject to such terms*  
2 *and conditions as the administering Secretaries may estab-*  
3 *lish. In the case of a demonstration project at a medical*  
4 *center described in subsection (b)(3), targeted medicare-eli-*  
5 *gible veterans who are military retirees shall be given pref-*  
6 *erence in participating in the project.*

7       “(d) *COST SHARING.—The Secretary of Veterans Af-*  
8 *fairs may establish cost-sharing requirements for veterans*  
9 *participating in the demonstration project. If such cost*  
10 *sharing requirements are established, those requirements*  
11 *shall be the same as the requirements that apply to targeted*  
12 *medicare-eligible patients at nongovernmental facilities.*

13       “(e) *CREDITING OF PAYMENTS.—A payment received*  
14 *by the Secretary of Veterans Affairs under the demonstra-*  
15 *tion project shall be credited to the applicable Department*  
16 *of Veterans Affairs medical appropriation and (within that*  
17 *appropriation) to funds that have been allotted to the medi-*  
18 *cal center that furnished the services for which the payment*  
19 *is made. Any such payment received during a fiscal year*  
20 *for services provided during a prior fiscal year may be obli-*  
21 *gated by the Secretary of Veterans Affairs during the fiscal*  
22 *year during which the payment is received.*

23       “(f) *AUTHORITY TO WAIVE CERTAIN MEDICARE RE-*  
24 *QUIREMENTS.—The Secretary may, to the extent necessary*  
25 *to carry out the demonstration project, waive any require-*

1 *ment under this title. If the Secretary waives any such re-*  
2 *quirement, the Secretary shall include a description of such*  
3 *waiver in the agreement described in subsection (b)(1)(B).*

4       “(g) *INSPECTOR GENERAL.*—*Nothing in the agreement*  
5 *entered into under subsection (b) shall limit the Inspector*  
6 *General of the Department of Health and Human Services*  
7 *from investigating any matters regarding the expenditure*  
8 *of funds under this title for the demonstration project, in-*  
9 *cluding compliance with the provisions of this title and all*  
10 *other relevant laws.*

11       “(h) *REPORT.*—*At least 30 days prior to the com-*  
12 *mencement of the demonstration project, the administering*  
13 *Secretaries shall submit a copy of the agreement entered*  
14 *into under subsection (b) to the committees of jurisdiction*  
15 *in Congress.*

16       “(i) *MANAGED HEALTH CARE PLANS.*—(1) *In carry-*  
17 *ing out the demonstration project, the Secretary of Veterans*  
18 *Affairs may establish and operate managed health care*  
19 *plans.*

20       “(2) *Any such plan shall be operated by or through*  
21 *a Department of Veterans Affairs medical center or group*  
22 *of medical centers and may include the provision of health*  
23 *care services through other facilities under the jurisdiction*  
24 *of the Secretary of Veterans Affairs as well as public and*  
25 *private entities under arrangements made between the De-*

1 *partment and the other public or private entity concerned.*  
2 *Any such managed health care plan shall be established and*  
3 *operated in conformance with standards prescribed by the*  
4 *administering Secretaries.*

5       “(3) *The administering Secretaries shall prescribe the*  
6 *minimum health care benefits to be provided under such*  
7 *a plan to veterans enrolled in the plan. Those benefits shall*  
8 *include at least all health care services covered under the*  
9 *medicare program under this title.*

10       “(4) *The establishment of a managed health care plan*  
11 *under this section shall be counted as the selection of a med-*  
12 *ical center for purposes of applying the numerical limita-*  
13 *tion under subsection (b)(1).*

14       “(j) *MEDICAL CENTER REQUIREMENTS.—The Sec-*  
15 *retary of Veterans Affairs may establish a managed health*  
16 *care plan using 1 or more medical centers and other facili-*  
17 *ties only after the Secretary of Veterans Affairs submits to*  
18 *Congress a report setting forth a plan for the use of such*  
19 *centers and facilities. The plan may not be implemented*  
20 *until the Secretary of Veterans Affairs has received from*  
21 *the Inspector General of the Department of Veterans Affairs,*  
22 *and has forwarded to Congress, certification of each of the*  
23 *following:*

24               “(1) *The cost accounting system of the Veterans*  
25 *Health Administration (known as the Decision Sup-*

1        *port System) is operational and is providing reliable*  
2        *cost information on care delivered on an inpatient*  
3        *and outpatient basis at such centers and facilities.*

4            *“(2) The centers and facilities have operated in*  
5        *conformity with the eligibility reform amendments*  
6        *made by title I of the Veterans Health Care Act of*  
7        *1996 for not less than 3 months.*

8            *“(3) The centers and facilities have developed a*  
9        *credible plan (on the basis of market surveys, data*  
10       *from the Decision Support System, actuarial analy-*  
11       *sis, and other appropriate methods and taking into*  
12       *account the level of payment under subsection (l) and*  
13       *the costs of providing covered services at the centers*  
14       *and facilities) to minimize, to the extent feasible, the*  
15       *risk that appropriated funds allocated to the centers*  
16       *and facilities will be required to meet the centers’ and*  
17       *facilities’ obligation to targeted medicare-eligible vet-*  
18       *erans under the demonstration project.*

19           *“(4) The centers and facilities collectively have*  
20       *available capacity to provide the contracted benefits*  
21       *package to a sufficient number of targeted medicare-*  
22       *eligible veterans.*

23           *“(5) The entity administering the health plan*  
24       *has sufficient systems and safeguards in place to min-*  
25       *imize any risk that instituting the managed care*

1        *model will result in reducing the quality of care deliv-*  
2        *ered to enrollees in the demonstration project or to*  
3        *other veterans receiving care under paragraphs sub-*  
4        *section (1) or (2) of section 1710(a) of title 38, United*  
5        *States Code.*

6        “(k) *RESERVES.*—*The Secretary of Veterans Affairs*  
7        *shall maintain such reserves as may be necessary to ensure*  
8        *against the risk that appropriated funds, allocated to medi-*  
9        *cal centers and facilities participating in the demonstration*  
10       *project through a managed health care plan under this sec-*  
11       *tion, will be required to meet the obligations of those medi-*  
12       *cal centers and facilities to targeted medicare-eligible veter-*  
13       *ans.*

14       “(l) *PAYMENTS BASED ON REGULAR MEDICARE PAY-*  
15       *MENT RATES.*—

16                “(1) *PAYMENTS.*—

17                        “(A) *IN GENERAL.*—*Subject to the succeed-*  
18                        *ing provisions of this subsection, the Secretary*  
19                        *shall reimburse the Secretary of Veterans Affairs*  
20                        *for services provided under the demonstration*  
21                        *project at the following rates:*

22                                “(i) *NONCAPITATION.*—*Except as pro-*  
23                                *vided in clause (ii) and subject to subpara-*  
24                                *graphs (B)(i) and (D), at a rate equal to 95*  
25                                *percent of the amounts that otherwise would*

1           *be payable under this title on a*  
2           *noncapitated basis for such services if the*  
3           *medical center were not a Federal medical*  
4           *center, were participating in the program,*  
5           *and imposed charges for such services.*

6           “(ii) *CAPITATION.*—*Subject to sub-*  
7           *paragraphs (B)(ii) and (D), in the case of*  
8           *services provided to an enrollee under a*  
9           *managed health care plan established under*  
10           *subsection (i), at a rate equal to 95 percent*  
11           *of the amount paid to a Medicare Choice or-*  
12           *ganization under part C with respect to*  
13           *such an enrollee.*

14           *In cases in which a payment amount may not*  
15           *otherwise be readily computed, the Secretaries*  
16           *shall establish rules for computing equivalent or*  
17           *comparable payment amounts.*

18           “(B) *EXCLUSION OF CERTAIN AMOUNTS.*—

19           “(i) *NONCAPITATION.*—*In computing*  
20           *the amount of payment under subparagraph*  
21           *(A)(i), the following shall be excluded:*

22           (i) *DISPROPORTIONATE SHARE HOS-*  
23           *PITAL ADJUSTMENT.*—*Any amount attrib-*  
24           *utable to an adjustment under subsection*

1            *(d)(5)(F) of section 1886 of the Social Secu-*  
2            *rity Act (42 U.S.C. 1395ww).*

3            *(ii) DIRECT GRADUATE MEDICAL EDU-*  
4            *CATION PAYMENTS.—Any amount attrib-*  
5            *utable to a payment under subsection (h) of*  
6            *such section.*

7            *(iii) PERCENTAGE OF INDIRECT MEDI-*  
8            *CAL EDUCATION ADJUSTMENT.—40 percent*  
9            *of any amount attributable to the adjust-*  
10           *ment under subsection (d)(5)(B) of such sec-*  
11           *tion.*

12           *(iv) PERCENTAGE OF CAPITAL PAY-*  
13           *MENTS.—67 percent of any amounts attrib-*  
14           *utable to payments for capital-related costs*  
15           *under subsection (g) of such section.*

16           *“(i) CAPITATION.—In the case of*  
17           *years before 2001, in computing the amount*  
18           *of payment under subparagraph (A)(ii), the*  
19           *payment rate shall be computed as though*  
20           *the amounts excluded under clause (i) had*  
21           *been excluded in the determination of the*  
22           *amount paid to a Medicare Choice organi-*  
23           *zation under part C with respect to an en-*  
24           *rollee.*

1           “(C) *PERIODIC PAYMENTS FROM MEDICARE*  
2           *TRUST FUNDS.—Payments under this subsection*  
3           *shall be made—*

4                     “(i) *on a periodic basis consistent with*  
5                     *the periodicity of payments under this title;*  
6                     *and*

7                     “(ii) *in appropriate part, as deter-*  
8                     *mined by the Secretary, from the trust*  
9                     *funds.*

10           “(D) *ANNUAL LIMIT ON MEDICARE PAY-*  
11           *MENTS.—The amount paid to the Department of*  
12           *Veterans Affairs under this subsection for any*  
13           *year for the demonstration project may not ex-*  
14           *ceed \$50,000,000.*

15           “(2) *REDUCTION IN PAYMENT FOR VA FAILURE*  
16           *TO MAINTAIN EFFORT.—*

17                     “(A) *IN GENERAL.—In order to avoid shift-*  
18                     *ing onto the medicare program under this title*  
19                     *costs previously assumed by the Department of*  
20                     *Veterans Affairs for the provision of medicare-*  
21                     *covered services to targeted medicare-eligible vet-*  
22                     *erans, the payment amount under this subsection*  
23                     *for the project for a fiscal year shall be reduced*  
24                     *by the amount (if any) by which—*

1           “(i) the amount of the VA effort level  
2           for targeted veterans (as defined in sub-  
3           paragraph (B)) for the fiscal year ending in  
4           such year, is less than

5           “(ii) the amount of the VA effort level  
6           for targeted veterans for fiscal year 1997.

7           “(B) VA EFFORT LEVEL FOR TARGETED  
8           VETERANS DEFINED.—For purposes of subpara-  
9           graph (A), the term ‘VA effort level for targeted  
10          veterans’ means, for a fiscal year, the amount, as  
11          estimated by the administering Secretaries, that  
12          would have been expended under the medicare  
13          program under this title for VA-provided medi-  
14          care-covered services for targeted veterans (as de-  
15          fined in subparagraph (C)) for that fiscal year  
16          if benefits were available under the medicare  
17          program for those services. Such amount does not  
18          include expenditures attributable to services for  
19          which reimbursement is made under the dem-  
20          onstration project.

21          “(C) VA-PROVIDED MEDICARE-COVERED  
22          SERVICES FOR TARGETED VETERANS.—For pur-  
23          poses of subparagraph (B), the term ‘VA-pro-  
24          vided medicare-covered services for targeted vet-

1            *erans’ means, for a fiscal year, items and serv-*  
2            *ices—*

3                    *“(i) that are provided during the fiscal*  
4                    *year by the Department of Veterans Affairs*  
5                    *to targeted medicare-eligible veterans;*

6                    *“(ii) that constitute hospital care and*  
7                    *medical services under chapter 17 of title*  
8                    *38, United States Code; and*

9                    *“(iii) for which benefits would be*  
10                    *available under the medicare program*  
11                    *under this title if they were provided other*  
12                    *than by a Federal provider of services that*  
13                    *does not charge for those services.*

14                    *“(3) ASSURING NO INCREASE IN COST TO MEDI-*  
15                    *CARE PROGRAM.—*

16                    *“(A) MONITORING EFFECT OF DEMONSTRA-*  
17                    *TION PROGRAM ON COSTS TO MEDICARE PRO-*  
18                    *GRAM.—*

19                    *“(i) IN GENERAL.—The Secretaries, in*  
20                    *consultation with the Comptroller General,*  
21                    *shall closely monitor the expenditures made*  
22                    *under the medicare program for targeted*  
23                    *medicare-eligible veterans during the period*  
24                    *of the demonstration project compared to*  
25                    *the expenditures that would have been made*

1           *for such veterans during that period if the*  
2           *demonstration project had not been con-*  
3           *ducted.*

4           “(i) *ANNUAL REPORT BY THE COMP-*  
5           *TROLLER GENERAL.—Not later than Decem-*  
6           *ber 31 of each year during which the dem-*  
7           *onstration project is conducted, the Comp-*  
8           *troller General shall submit to the Secretar-*  
9           *ies and the appropriate committees of Con-*  
10          *gress a report on the extent, if any, to which*  
11          *the costs of the Secretary under the medi-*  
12          *care program under this title increased dur-*  
13          *ing the preceding fiscal year as a result of*  
14          *the demonstration project.*

15          “(B) *REQUIRED RESPONSE IN CASE OF IN-*  
16          *CREASE IN COSTS.—*

17               “(i) *IN GENERAL.—If the administer-*  
18               *ing Secretaries find, based on subparagraph*  
19               *(A), that the expenditures under the medi-*  
20               *care program under this title increased (or*  
21               *are expected to increase) during a fiscal*  
22               *year because of the demonstration project,*  
23               *the administering Secretaries shall take*  
24               *such steps as may be needed—*

1           “(I) to recoup for the medicare  
2           program the amount of such increase  
3           in expenditures; and

4           “(II) to prevent any such increase  
5           in the future.

6           “(ii) STEPS.—Such steps—

7           “(I) under clause (i)(I) shall in-  
8           clude payment of the amount of such  
9           increased expenditures by the Secretary  
10          of Veterans Affairs from the current  
11          medical care appropriation of the De-  
12          partment of Veterans Affairs to the  
13          trust funds; and

14          “(II) under clause (i)(II) shall in-  
15          clude suspending or terminating the  
16          demonstration project (in whole or in  
17          part) or lowering the amount of pay-  
18          ment under paragraph (1)(A).

19          “(m) EVALUATION AND REPORTS.—

20                 “(1) INDEPENDENT EVALUATION.—The admin-  
21                 istering Secretaries shall arrange for an independent  
22                 entity with expertise in the evaluation of health serv-  
23                 ices to conduct an evaluation of the demonstration  
24                 project. The entity shall submit annual reports on the  
25                 demonstration project to the administering Secretar-

1        *ies and to the committees of jurisdiction in the Con-*  
2        *gress. The first report shall be submitted not later*  
3        *than 12 months after the date on which the dem-*  
4        *onstration project begins operation, and the final re-*  
5        *port not later than 3½ years after that date. The*  
6        *evaluation and reports shall include an assessment,*  
7        *based on the agreement entered into under subsection*  
8        *(b), of the following:*

9                *“(A) The cost to the Department of Veterans*  
10              *Affairs of providing care to veterans under the*  
11              *project.*

12              *“(B) Compliance of participating medical*  
13              *centers with applicable measures of quality of*  
14              *care, compared to such compliance for other*  
15              *medicare-participating medical centers.*

16              *“(C) A comparison of the costs of medical*  
17              *centers’ participation in the program with the*  
18              *reimbursements provided for services of such*  
19              *medical centers.*

20              *“(D) Any savings or costs to the medicare*  
21              *program under this title from the project.*

22              *“(E) Any change in access to care or qual-*  
23              *ity of care for targeted medicare-eligible veterans*  
24              *participating in the project.*

1           “(F) Any effect of the project on the access  
2 to care and quality of care for targeted medicare-  
3 eligible veterans not participating in the project  
4 and other veterans not participating in the  
5 project.

6           “(G) The provision of services under man-  
7 aged health care plans under subsection (l), in-  
8 cluding the circumstances (if any) under which  
9 the Secretary of Veterans Affairs uses reserves de-  
10 scribed in subsection (k) and the Secretary of  
11 Veterans Affairs’ response to such circumstances  
12 (including the termination of managed health  
13 care plans requiring the use of such reserves).

14           “(H) Any effect that the demonstration  
15 project has on the enrollment in Medicare Choice  
16 organizations under part C of this title in the es-  
17 tablished site areas.

18           “(2) REPORT ON EXTENSION AND EXPANSION OF  
19 DEMONSTRATION PROJECT.—Not later than six  
20 months after the date of the submission of the penul-  
21 timate report under paragraph (1), the administering  
22 Secretaries shall submit to Congress a report contain-  
23 ing their recommendation as to—

24           “(A) whether to extend the demonstration  
25 project or make the project permanent;



1 *in section 1074(b) or 1076(b) of title 10, United*  
2 *States Code, who—*

3 *“(A) would be eligible for health benefits*  
4 *under section 1086 of such title by reason of sub-*  
5 *section (c)(1) of such section 1086 but for the op-*  
6 *eration of subsection (d) of such section 1086;*

7 *“(B)(i) is entitled to benefits under part A*  
8 *of this title; and*

9 *“(ii) if the individual was entitled to such*  
10 *benefits before July 1, 1996, received health care*  
11 *items or services from a health care facility of*  
12 *the uniformed services before that date, but after*  
13 *becoming entitled to benefits under part A of this*  
14 *title;*

15 *“(C) is enrolled for benefits under part B of*  
16 *this title; and*

17 *“(D) has attained age 65.*

18 *“(5) MEDICARE HEALTH CARE SERVICES.—The*  
19 *term ‘medicare health care services’ means items or*  
20 *services covered under part A or B of this title.*

21 *“(6) MILITARY TREATMENT FACILITY.—The term*  
22 *‘military treatment facility’ means a facility referred*  
23 *to in section 1074(a) of title 10, United States Code.*

24 *“(7) TRICARE.—The term ‘TRICARE’ has the*  
25 *same meaning as the term ‘TRICARE program’*

1       *under section 711 of the National Defense Authoriza-*  
2       *tion Act for Fiscal Year 1996 (10 U.S.C. 1073 note).*

3           “(5) *TRUST FUNDS.*—*The term ‘trust funds’*  
4       *means the Federal Hospital Insurance Trust Fund es-*  
5       *tablished in section 1817 and the Federal Supple-*  
6       *mentary Medical Insurance Trust Fund established in*  
7       *section 1841.*

8       “(b) *DEMONSTRATION PROJECT.*—

9           “(1) *IN GENERAL.*—

10           “(A) *ESTABLISHMENT.*—*The administering*  
11       *Secretaries are authorized to establish a dem-*  
12       *onstration project (under an agreement entered*  
13       *into by the administering Secretaries) under*  
14       *which the Secretary shall reimburse the Sec-*  
15       *retary of Defense, from the trust funds, for medi-*  
16       *care health care services furnished to certain*  
17       *medicare-eligible military retirees or dependents.*

18           “(B) *AGREEMENT.*—*The agreement entered*  
19       *into under subparagraph (A) shall include at a*  
20       *minimum—*

21           “(i) *a description of the benefits to be*  
22       *provided to the participants of the dem-*  
23       *onstration project established under this sec-*  
24       *tion;*

1           “(ii) a description of the eligibility  
2 rules for participation in the demonstration  
3 project, including any cost sharing require-  
4 ments established under subsection (h);

5           “(iii) a description of how the dem-  
6 onstration project will satisfy the require-  
7 ments under this title;

8           “(iv) a description of the sites selected  
9 under paragraph (2);

10          “(v) a description of how reimburse-  
11 ment and maintenance of effort require-  
12 ments under subsection (j) will be imple-  
13 mented in the demonstration project; and

14          “(vi) a statement that the Secretary  
15 shall have access to all data of the Depart-  
16 ment of Defense that the Secretary deter-  
17 mines is necessary to conduct independent  
18 estimates and audits of the maintenance of  
19 effort requirement, the annual reconcili-  
20 ation, and related matters required under  
21 the demonstration project.

22          “(2) *IN GENERAL.*—The project established under  
23 this section shall be conducted in no more than 6  
24 sites, designated jointly by the administering Sec-  
25 retaries after review of all TRICARE regions.

1           “(3) *RESTRICTION.*—No new military treatment  
2           *facilities will be built or expanded with funds from*  
3           *the demonstration project.*

4           “(4) *DURATION.*—The administering Secretaries  
5           *shall conduct the demonstration project during the 3-*  
6           *year period beginning on January 1, 1998.*

7           “(c) *CREDITING OF PAYMENTS.*—A payment received  
8           *by the Secretary of Defense under the demonstration project*  
9           *shall be credited to the applicable Department of Defense*  
10           *medical appropriation and (within that appropriation).*  
11           *Any such payment received during a fiscal year for services*  
12           *provided during a prior fiscal year may be obligated by*  
13           *the Secretary of Defense during the fiscal year during which*  
14           *the payment is received.*

15           “(d) *AUTHORITY TO WAIVE CERTAIN MEDICARE RE-*  
16           *QUIREMENTS.*—The Secretary may, to the extent necessary  
17           *to carry out the demonstration project, waive any require-*  
18           *ment under this title. If the Secretary waives any such re-*  
19           *quirement, the Secretary shall include a description of such*  
20           *waiver in the agreement described in subsection (b).*

21           “(e) *INSPECTOR GENERAL.*—Nothing in the agreement  
22           *entered into under subsection (b) shall limit the Inspector*  
23           *General of the Department of Health and Human Services*  
24           *from investigating any matters regarding the expenditure*  
25           *of funds under this title for the demonstration project, in-*

1 *cluding compliance with the provisions of this title and all*  
2 *other relevant laws.*

3       “(f) *REPORT.—At least 30 days prior to the com-*  
4 *mencement of the demonstration project, the administering*  
5 *Secretaries shall submit a copy of the agreement entered*  
6 *into under subsection (b) to the committees of jurisdiction*  
7 *in Congress.*

8       “(g) *VOLUNTARY PARTICIPATION.—Participation of*  
9 *medicare-eligible military retirees or dependents in the*  
10 *demonstration project shall be voluntary, subject to the ca-*  
11 *capacity of participating military treatment facilities and*  
12 *designated providers and the funding limitations specified*  
13 *in subsection (j), and shall be subject to such terms and*  
14 *conditions as the administering Secretaries may establish.*

15       “(h) *COST-SHARING BY DEMONSTRATION ENROLL-*  
16 *EES.—The Secretary of Defense may establish cost-sharing*  
17 *requirements for medicare-eligible military retirees and de-*  
18 *pendents who enroll in the demonstration project consistent*  
19 *with part C of this title.*

20       “(i) *TRICARE HEALTH CARE PLANS.—*

21               “(1) *TRICARE PROGRAM ENROLLMENT FEE*  
22 *WAIVER.—The Secretary of Defense shall waive the*  
23 *enrollment fee applicable to any medicare-eligible*  
24 *military retiree or dependent enrolled in the managed*  
25 *care option of the TRICARE program for any period*

1       *for which reimbursement is made under this section*  
2       *with respect to such retiree or dependent.*

3           “(2) *MODIFICATION OF TRICARE CONTRACTS.—*  
4       *In carrying out the demonstration project, the Sec-*  
5       *retary of Defense is authorized to amend existing*  
6       *TRICARE contracts in order to provide the medicare*  
7       *health care services to the medicare-eligible military*  
8       *retirees and dependents enrolled in the demonstration*  
9       *project.*

10           “(3) *HEALTH CARE BENEFITS.—The administer-*  
11       *ing Secretaries shall prescribe the minimum health*  
12       *care benefits to be provided under such a plan to*  
13       *medicare-eligible military retirees or dependents en-*  
14       *rolled in the plan. Those benefits shall include at least*  
15       *all medicare health care services covered under this*  
16       *title.*

17           “(j) *PAYMENTS BASED ON REGULAR MEDICARE PAY-*  
18       *MENT RATES.—*

19           “(1) *PAYMENTS.—*

20           “(A) *IN GENERAL.—Subject to the succeed-*  
21       *ing provisions of this subsection, the Secretary*  
22       *shall reimburse the Secretary of Defense for serv-*  
23       *ices provided under the demonstration project at*  
24       *the following rates:*

1           “(i) *NONCAPITATION.*—*Except as pro-*  
2           *vided in clause (ii) and subject to subpara-*  
3           *graphs (B)(i) and (D), at a rate equal to 95*  
4           *percent of the amounts that otherwise would*  
5           *be payable under this title on a*  
6           *noncapitated basis for such services if the*  
7           *military treatment facility or designated*  
8           *provider were not a Federal medical center,*  
9           *were participating in the program, and im-*  
10          *posed charges for such services.*

11          “(ii) *CAPITATION.*—*Subject to sub-*  
12          *paragraphs (B)(ii) and (D), in the case of*  
13          *services provided to an enrollee under a*  
14          *managed health care plan established under*  
15          *subsection (i), at a rate equal to 95 percent*  
16          *of the amount paid to a Medicare Choice or-*  
17          *ganization under part C with respect to*  
18          *such an enrollee.*

19          *In cases in which a payment amount may not*  
20          *otherwise be readily computed, the Secretaries*  
21          *shall establish rules for computing equivalent or*  
22          *comparable payment amounts.*

23          “(B) *EXCLUSION OF CERTAIN AMOUNTS.*—

1           “(i) *NONCAPITATION.*—*In computing*  
2           *the amount of payment under subparagraph*  
3           *(A)(i), the following shall be excluded:*

4                   “(I) *SPECIAL PAYMENTS.*—*Any*  
5                   *amount attributable to an adjustment*  
6                   *under subparagraphs (B) and (F) of*  
7                   *section 1886(d)(5) and subsection (h)*  
8                   *of such section.*

9                   “(II) *PERCENTAGE OF CAPITAL*  
10                   *PAYMENTS.*—*An amount determined by*  
11                   *the administering Secretaries for*  
12                   *amounts attributable to payments for*  
13                   *capital-related costs under subsection*  
14                   *(g) of such section.*

15           “(ii) *CAPITATION.*—*In the case of*  
16           *years before 2001, in computing the amount*  
17           *of payment under subparagraph (A)(ii), the*  
18           *payment rate shall be computed as though*  
19           *the amounts excluded under clause (i) had*  
20           *been excluded in the determination of the*  
21           *amount paid to a Medicare Choice organi-*  
22           *zation under part C with respect to an en-*  
23           *rollee.*

1           “(C) *PERIODIC PAYMENTS FROM MEDICARE*  
2 *TRUST FUNDS.—Payments under this subsection*  
3 *shall be made—*

4                   “(i) *on a periodic basis consistent with*  
5 *the periodicity of payments under this title;*  
6 *and*

7                   “(ii) *in appropriate part, as deter-*  
8 *mined by the Secretary, from the trust*  
9 *funds.*

10           “(D) *CAP ON AMOUNT.—The aggregate*  
11 *amount to be reimbursed under this paragraph*  
12 *pursuant to the agreement entered into between*  
13 *the administering Secretaries under subsection*  
14 *(b) shall not exceed a total of—*

15                   “(i) *\$55,000,000 for calendar year*  
16 *1998;*

17                   “(ii) *\$65,000,000 for calendar year*  
18 *1999; and*

19                   “(iii) *\$75,000,000 for calendar year*  
20 *2000.*

21           “(2) *ASSURING NO INCREASE IN COST TO MEDI-*  
22 *CARE PROGRAM.—*

23                   “(A) *MONITORING EFFECT OF DEMONSTRA-*  
24 *TION PROGRAM ON COSTS TO MEDICARE PRO-*  
25 *GRAM.—*

1           “(i) *IN GENERAL.*—*The Secretaries, in*  
2           *consultation with the Comptroller General,*  
3           *shall closely monitor the expenditures made*  
4           *under the medicare program for medicare-*  
5           *eligible military retirees or dependents dur-*  
6           *ing the period of the demonstration project*  
7           *compared to the expenditures that would*  
8           *have been made for such medicare-eligible*  
9           *military retirees or dependents during that*  
10           *period if the demonstration project had not*  
11           *been conducted. The agreement entered into*  
12           *by the administering Secretaries under sub-*  
13           *section (b) shall require any participating*  
14           *military treatment facility to maintain the*  
15           *level of effort for space available care to*  
16           *medicare-eligible military retirees or de-*  
17           *pendents.*

18           “(ii) *ANNUAL REPORT BY THE COMP-*  
19           *TROLLER GENERAL.*—*Not later than Decem-*  
20           *ber 31 of each year during which the dem-*  
21           *onstration project is conducted, the Comp-*  
22           *troller General shall submit to the Secretar-*  
23           *ies and the appropriate committees of Con-*  
24           *gress a report on the extent, if any, to which*  
25           *the costs of the Secretary under the medi-*

1           *care program under this title increased dur-*  
2           *ing the preceding fiscal year as a result of*  
3           *the demonstration project.*

4           “(B) *REQUIRED RESPONSE IN CASE OF IN-*  
5           *CREASE IN COSTS.—*

6           “(i) *IN GENERAL.—If the administer-*  
7           *ing Secretaries find, based on subparagraph*  
8           *(A), that the expenditures under the medi-*  
9           *care program under this title increased (or*  
10           *are expected to increase) during a fiscal*  
11           *year because of the demonstration project,*  
12           *the administering Secretaries shall take*  
13           *such steps as may be needed—*

14           “(I) *to recoup for the medicare*  
15           *program the amount of such increase*  
16           *in expenditures; and*

17           “(II) *to prevent any such increase*  
18           *in the future.*

19           “(ii) *STEPS.—Such steps—*

20           “(I) *under clause (i)(I) shall in-*  
21           *clude payment of the amount of such*  
22           *increased expenditures by the Secretary*  
23           *of Defense from the current medical*  
24           *care appropriation of the Department*  
25           *of Defense to the trust funds; and*

1                   “(II) under clause (i)(II) shall in-  
2                   clude suspending or terminating the  
3                   demonstration project (in whole or in  
4                   part) or lowering the amount of pay-  
5                   ment under paragraph (1)(A).

6                   “(k) *EVALUATION AND REPORTS.*—

7                   “(1) *INDEPENDENT EVALUATION.*—The admin-  
8                   istering Secretaries shall arrange for an independent  
9                   entity with expertise in the evaluation of health serv-  
10                  ices to conduct an evaluation of the demonstration  
11                  project. The entity shall submit annual reports on the  
12                  demonstration project to the administering Secretar-  
13                  ies and to the committees of jurisdiction in the Con-  
14                  gress. The first report shall be submitted not later  
15                  than 12 months after the date on which the dem-  
16                  onstration project begins operation, and the final re-  
17                  port not later than 3½ years after that date. The  
18                  evaluation and reports shall include an assessment,  
19                  based on the agreement entered into under subsection  
20                  (b), of the following:

21                  “(A) The number of medicare-eligible mili-  
22                  tary retirees and dependents opting to partici-  
23                  pate in the demonstration project instead of re-  
24                  ceiving health benefits through another health in-

1           *surance plan (including benefits under this*  
2           *title).*

3           “(B) *Compliance by the Department of De-*  
4           *fense with the requirements under this title.*

5           “(C) *The cost to the Department of Defense*  
6           *of providing care to medicare-eligible military*  
7           *retirees and dependents under the demonstration*  
8           *project.*

9           “(D) *Compliance by the Department of De-*  
10          *fense with the standards of quality required of*  
11          *entities that furnish medicare health care serv-*  
12          *ices.*

13          “(E) *An analysis of whether, and in what*  
14          *manner, easier access to the uniformed services*  
15          *treatment system affects the number of medicare-*  
16          *eligible military retirees and dependents receiv-*  
17          *ing medicare health care services.*

18          “(F) *Any savings or costs to the medicare*  
19          *program under this title resulting from the dem-*  
20          *onstration project.*

21          “(G) *An assessment of the access to care*  
22          *and quality of care for medicare-eligible military*  
23          *retirees and dependents under the demonstration*  
24          *project.*

1           “(H) Any impact of the demonstration  
2 project on the access to care for medicare-eligible  
3 military retirees and dependents who did not en-  
4 roll in the demonstration project and for other  
5 individuals entitled to benefits under this title.

6           “(I) Any impact of the demonstration  
7 project on private health care providers.

8           “(J) Any impact of the demonstration  
9 project on access to care for active duty military  
10 personnel and their dependents.

11           “(K) A list of the health insurance plans  
12 and programs that were the primary payers for  
13 medicare-eligible military retirees and depend-  
14 ents during the year prior to their participation  
15 in the demonstration project and the distribution  
16 of their previous enrollment in such plans and  
17 programs.

18           “(L) An identification of cost-shifting (if  
19 any) between the medicare program under this  
20 title and the Defense health program as a result  
21 of the demonstration project and a description of  
22 the nature of any such cost-shifting.

23           “(M) An analysis of how the demonstration  
24 project affects the overall accessibility of the uni-  
25 formed services treatment system and the amount

1           *of space available for point-of-service care, and a*  
2           *description of the unintended effects (if any)*  
3           *upon the normal treatment priority system.*

4           “(N) *A description of the difficulties (if*  
5           *any) experienced by the Department of Defense*  
6           *in managing the demonstration project.*

7           “(O) *A description of the effects of the dem-*  
8           *onstration project on military treatment facility*  
9           *readiness and training and the probable effects of*  
10          *the project on overall Department of Defense*  
11          *medical readiness and training.*

12          “(P) *A description of the effects that the*  
13          *demonstration project, if permanent, would be*  
14          *expected to have on the overall budget of the De-*  
15          *fense health program, the budgets of individual*  
16          *military treatment facilities and designated pro-*  
17          *viders, and on the budget of the medicare pro-*  
18          *gram under this title.*

19          “(Q) *An analysis of whether the demonstra-*  
20          *tion project affects the cost to the Department of*  
21          *Defense of prescription drugs or the accessibility,*  
22          *availability, and cost of such drugs to dem-*  
23          *onstration program beneficiaries.*

24          “(R) *Any additional elements specified in*  
25          *the agreement entered into under subsection (b).*

1           “(2) *REPORT ON EXTENSION AND EXPANSION OF*  
 2           *DEMONSTRATION PROJECT.*—Not later than six  
 3           months after the date of the submission of the penul-  
 4           timate report under paragraph (1), the administering  
 5           Secretaries shall submit to Congress a report contain-  
 6           ing their recommendation as to—

7                   “(A) *whether to extend the demonstration*  
 8                   *project or make the project permanent;*

9                   “(B) *whether to expand the project to cover*  
 10                  *additional sites and areas and to increase the*  
 11                  *maximum amount of reimbursement (or the*  
 12                  *maximum amount of reimbursement permitted*  
 13                  *for managed health care plans under this sec-*  
 14                  *tion) under the project in any year; and*

15                  “(C) *whether the terms and conditions of*  
 16                  *the project should be continued (or modified) if*  
 17                  *the project is extended or expanded.”.*

18   **CHAPTER 6—TAX TREATMENT OF HOS-**  
 19   **PITALS PARTICIPATING IN PROVIDER-**  
 20   **SPONSORED ORGANIZATIONS**

21   **SEC. 5049. TAX TREATMENT OF HOSPITALS WHICH PARTICI-**  
 22   **PATE IN PROVIDER-SPONSORED ORGANIZA-**  
 23   **TIONS.**

24           (a) *IN GENERAL.*—Section 501 of the Internal Revenue  
 25   Code of 1986 (relating to exemption from tax on corpora-



1                   “(iii) in the case of a woman over 39  
 2                   years of age, payment may not be made  
 3                   under this part for screening mammog-  
 4                   raphy performed within 11 months follow-  
 5                   ing the month in which a previous screen-  
 6                   ing mammography was performed.”.

7                   (b) *WAIVER OF COINSURANCE.*—

8                   (1) *IN GENERAL.*—Section 1834(c)(1)(C) (42  
 9                   U.S.C. 1395m(c)(1)(C)) is amended by striking “80  
 10                  percent of”.

11                  (2) *WAIVER OF COINSURANCE IN OUTPATIENT*  
 12                  *HOSPITAL SETTINGS.*—The third sentence of section  
 13                  1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amend-  
 14                  ed by inserting after “1861(s)(10)(A)” the following:  
 15                  “; with respect to screening mammography (as de-  
 16                  fined in section 1861(jj),”.

17                  (c) *EFFECTIVE DATE.*—The amendments made by sub-  
 18                  section (a) apply to items and services furnished on or after  
 19                  January 1, 1998.

20                  **SEC. 5102. COVERAGE OF COLORECTAL SCREENING.**

21                  (a) *IN GENERAL.*—Section 1861 (42 U.S.C. 1395x) is  
 22                  amended—

23                         (1) in subsection (s)(2)—

24                                 (A) by striking “and” at the end of sub-  
 25                                 paragraphs (N) and (O); and

1                   (B) by inserting after subparagraph (O) the  
2                   following:

3                   “(P) colorectal cancer screening tests (as defined  
4                   in subsection (oo)); and”;

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

6                   “Colorectal Cancer Screening Test

7                   “(oo)(1)(A) The term ‘colorectal cancer screening test’  
8                   means a procedure furnished to an individual that the Sec-  
9                   retary prescribes in regulations as appropriate for the pur-  
10                  pose of early detection of colorectal cancer, taking into ac-  
11                  count availability, effectiveness, costs, changes in technology  
12                  and standards of medical practice, and such other factors  
13                  as the Secretary considers appropriate.

14                  “(B) The Secretary shall consult with appropriate or-  
15                  ganizations in prescribing regulations under subparagraph  
16                  (A).”.

17                  (b) *FREQUENCY AND PAYMENT LIMITS.*—Section 1834  
18                  (42 U.S.C. 1395m) is amended by inserting after subsection  
19                  (c) the following new subsection:

20                  “(d) *FREQUENCY AND PAYMENT LIMITS FOR*  
21                  *COLORECTAL CANCER SCREENING TESTS.*—

22                  “(1) *IN GENERAL.*—The Secretary shall prescribe  
23                  regulations that—

24                  “(A) establish frequency limits for colorectal  
25                  cancer screening tests that take into account the

1           *risk status of an individual and that are consist-*  
2           *ent with frequency limits for similar or related*  
3           *services; and*

4           “(B) *establish payment limits (including*  
5           *limits on charges of nonparticipating physi-*  
6           *cians) for colorectal cancer screening tests that*  
7           *are consistent with payment limits for similar or*  
8           *related services.*

9           “(2) *REVISIONS.—The Secretary shall periodi-*  
10          *cally review and, to the extent the Secretary considers*  
11          *appropriate, revise the frequency and payment limits*  
12          *established under paragraph (1).*

13          “(3) *FACTORS TO DETERMINE INDIVIDUALS AT*  
14          *RISK.—In establishing criteria for determining*  
15          *whether an individual is at risk for purposes of this*  
16          *subsection, the Secretary shall take into consideration*  
17          *family history, prior experience of cancer, a history*  
18          *of chronic digestive disease condition, and the pres-*  
19          *ence of any appropriate recognized gene markers for*  
20          *colorectal cancer.*

21          “(4) *CONSULTATION.—In establishing and revis-*  
22          *ing frequency and payment limits under this sub-*  
23          *section, the Secretary shall consult with appropriate*  
24          *organizations.”.*

1           (c) *CONFORMING AMENDMENTS.—(1) Paragraphs*  
2 *(1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a))*  
3 *are each amended by inserting “or section 1834(d)” after*  
4 *“subsection (h)(1)”.*

5           (2) *Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A))*  
6 *is amended by striking “The Secretary” and inserting*  
7 *“Subject to section 1834(d), the Secretary”.*

8           (3) *Section 1862(a) (42 U.S.C. 1395y(a)) is amend-*  
9 *ed—*

10                   (A) *in paragraph (1)—*

11                           (i) *in subparagraph (E), by striking “and”*  
12 *at the end,*

13                           (ii) *in subparagraph (F), by striking the*  
14 *semicolon at the end and inserting “, and”, and*

15                           (iii) *by adding at the end the following new*  
16 *subparagraph:*

17                           “(G) *in the case of colorectal cancer screening*  
18 *tests, which are performed more frequently than is*  
19 *covered under section 1834(d);” and*

20                   (B) *in paragraph (7), by striking “paragraph*  
21 *(1)(B) or under paragraph (1)(F)” and inserting*  
22 *“subparagraph (B), (F), or (G) of paragraph (1)”.*

23           (d) *EFFECTIVE DATE.—*

1           (1) *IN GENERAL.*—*The amendments made by*  
 2 *this section shall apply to items and services fur-*  
 3 *nished on or after January 1, 1998.*

4           (2) *REGULATIONS.*—*The Secretary of Health and*  
 5 *Human Services shall issue final regulations de-*  
 6 *scribed in sections 1861(oo) and 1834(d) of the Social*  
 7 *Security Act (as added by this section) within 3*  
 8 *months after the date of enactment of this Act.*

9 **SEC. 5103. DIABETES SCREENING TESTS.**

10       (a) *DIABETES OUTPATIENT SELF-MANAGEMENT*  
 11 *TRAINING SERVICES.*—

12           (1) *IN GENERAL.*—*Section 1861(s) (42 U.S.C.*  
 13 *1395x(s)), as amended by section 5102, is amended—*

14                   (A) *in subsection (s)(2)—*

15                           (i) *by striking “and” at the end of sub-*  
 16 *paragraph (P);*

17                           (ii) *by inserting “and” at the end of*  
 18 *subparagraph (Q); and*

19                           (iii) *by adding at the end the follow-*  
 20 *ing:*

21                                   “(R) *diabetes outpatient self-management train-*  
 22 *ing services (as defined in subsection (pp));” and*

23                                   (B) *by adding at the end the following:*

1    *“Diabetes Outpatient Self-Management Training Services*  
2        *“(pp)(1) The term ‘diabetes outpatient self-manage-*  
3    *ment training services’ means educational and training*  
4    *services furnished to an individual with diabetes by a cer-*  
5    *tified provider (as described in paragraph (2)(A)) in an*  
6    *outpatient setting by an individual or entity that meets the*  
7    *quality standards described in paragraph (2)(B), but only*  
8    *if the physician who is managing the individual’s diabetic*  
9    *condition certifies that the services are needed under a com-*  
10   *prehensive plan of care related to the individual’s diabetic*  
11   *condition to provide the individual with necessary skills*  
12   *and knowledge (including skills related to the self-adminis-*  
13   *tration of injectable drugs) to participate in the manage-*  
14   *ment of the individual’s condition.*

15        *“(2) In paragraph (1)—*

16            *“(A) a ‘certified provider’ is a physician, or*  
17        *other individual or entity designated by the Sec-*  
18        *retary, that, in addition to providing diabetes out-*  
19        *patient self-management training services, provides*  
20        *other items or services for which payment may be*  
21        *made under this title; and*

22            *“(B) a physician, or other such individual or en-*  
23        *tity, meets the quality standards described in this*  
24        *subparagraph if the physician, or individual or en-*  
25        *tity, meets quality standards established by the Sec-*

1        *retary, except that the physician, or other individual*  
2        *or entity, shall be deemed to have met such standards*  
3        *if the physician or other individual or entity—*

4                *“(i) meets applicable standards originally*  
5                *established by the National Diabetes Advisory*  
6                *Board and subsequently revised by organizations*  
7                *who participated in the establishment of stand-*  
8                *ards by such Board, or*

9                *“(ii) is recognized by an organization that*  
10                *represents individuals (including individuals*  
11                *under this title) with diabetes as meeting stand-*  
12                *ards for furnishing the services.”.*

13                *(2) CONSULTATION WITH ORGANIZATIONS IN ES-*  
14                *TABLISHING PAYMENT AMOUNTS FOR SERVICES PRO-*  
15                *VIDED BY PHYSICIANS.—In establishing payment*  
16                *amounts under section 1848 of the Social Security*  
17                *Act for physicians’ services consisting of diabetes out-*  
18                *patient self-management training services, the Sec-*  
19                *retary of Health and Human Services shall consult*  
20                *with appropriate organizations, including such orga-*  
21                *nizations representing individuals or medicare bene-*  
22                *ficiaries with diabetes, in determining the relative*  
23                *value for such services under section 1848(c)(2) of*  
24                *such Act.*

1           **(b) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH**  
2 **DIABETES.—**

3           **(1) INCLUDING STRIPS AND MONITORS AS DURA-**  
4 **BLE MEDICAL EQUIPMENT.—***The first sentence of sec-*  
5 *tion 1861(n) (42 U.S.C. 1395x(n)) is amended by in-*  
6 *serting before the semicolon the following: “, and in-*  
7 *cludes blood-testing strips and blood glucose monitors*  
8 *for individuals with diabetes without regard to wheth-*  
9 *er the individual has Type I or Type II diabetes or*  
10 *to the individual’s use of insulin (as determined*  
11 *under standards established by the Secretary in con-*  
12 *sultation with the appropriate organizations)”.*

13           **(2) 10 PERCENT REDUCTION IN PAYMENTS FOR**  
14 **TESTING STRIPS.—***Section 1834(a)(2)(B)(iv) (42*  
15 *U.S.C. 1395m(a)(2)(B)(iv)) is amended by adding be-*  
16 *fore the period the following: “(reduced by 10 percent,*  
17 *in the case of a blood glucose testing strip furnished*  
18 *after 1997 for an individual with diabetes)”.*

19           **(c) ESTABLISHMENT OF OUTCOME MEASURES FOR**  
20 **BENEFICIARIES WITH DIABETES.—**

21           **(1) IN GENERAL.—***The Secretary of Health and*  
22 *Human Services, in consultation with appropriate*  
23 *organizations, shall establish outcome measures, in-*  
24 *cluding glycosylated hemoglobin (past 90-day average*  
25 *blood sugar levels), for purposes of evaluating the im-*

1        *provement of the health status of medicare bene-*  
2        *ficiaries with diabetes mellitus.*

3                (2) *RECOMMENDATIONS FOR MODIFICATIONS TO*  
4        *SCREENING BENEFITS.—Taking into account infor-*  
5        *mation on the health status of medicare beneficiaries*  
6        *with diabetes mellitus as measured under the outcome*  
7        *measures established under subparagraph (A), the*  
8        *Secretary shall from time to time submit rec-*  
9        *ommendations to Congress regarding modifications to*  
10       *the coverage of services for such beneficiaries under*  
11       *the medicare program.*

12               (d) *EFFECTIVE DATE.—The amendments made by this*  
13       *section apply to items and services furnished on or after*  
14       *January 1, 1998.*

15       **SEC. 5104. COVERAGE OF BONE MASS MEASUREMENTS.**

16               (a) *IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is*  
17       *amended—*

18                (1) *in subsection (s)—*

19                        (A) *in paragraph (12)(C), by striking*  
20                        *“and” at the end;*

21                        (B) *by striking the period at the end of*  
22                        *paragraph (14) and inserting “; and”;*

23                        (C) *by redesignating paragraphs (15) and*  
24                        *(16) as paragraphs (16) and (17), respectively;*  
25                        *and*

1                   (D) by inserting after paragraph (14) the  
2                   following:

3                   “(15) bone mass measurement (as defined in sub-  
4                   section (oo)).”; and

5                   (2) by inserting after subsection (pp), as added  
6                   by section 5103, the following:

7                   “*Bone Mass Measurement*

8                   “(gg)(1) The term ‘bone mass measurement’ means a  
9                   radiologic or radioscopy procedure or other Food and Drug  
10                  Administration approved technology performed on a quali-  
11                  fied individual (as defined in paragraph (2)) for the pur-  
12                  pose of identifying bone mass, detecting bone loss, or deter-  
13                  mining bone quality, and includes a physician’s interpreta-  
14                  tion of the results of the procedure.

15                  “(2) For purposes of paragraph (1), the term ‘qualified  
16                  individual’ means an individual who is (in accordance  
17                  with regulations prescribed by the Secretary)—

18                  “(A) an estrogen-deficient woman at clinical risk  
19                  for osteoporosis and who is considering treatment;

20                  “(B) an individual with vertebral abnormalities;

21                  “(C) an individual receiving long-term  
22                  glucocorticoid steroid therapy;

23                  “(D) an individual with primary  
24                  hyperparathyroidism; or

1           “(E) an individual being monitored to assess the  
2           response to or efficacy of an approved osteoporosis  
3           drug therapy.”.

4           (b) *CONFORMING AMENDMENTS.*—Sections 1864(a),  
5 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42  
6 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), and  
7 1396n(a)(1)(B)(ii)(I)) are amended by striking “para-  
8 graphs (15) and (16)” each place such term appears and  
9 inserting “paragraphs (16) and (17)”.

10          (c) *EFFECTIVE DATE.*—The amendments made by this  
11 section shall apply to bone mass measurements performed  
12 on or after January 1, 1998.

13 **SEC. 5105. STUDY ON MEDICAL NUTRITION THERAPY SERV-**  
14 **ICES.**

15          (a) *STUDY.*—The Secretary of Health and Human  
16 Services shall request the National Academy of Sciences, in  
17 conjunction with the United States Preventive Services  
18 Task Force, to analyze the expansion or modification of the  
19 preventive benefits provided to medicare beneficiaries under  
20 title XVIII of the Social Security Act to include medical  
21 nutrition therapy services by a registered dietitian.

22          (b) *REPORT.*—

23                 (1) *INITIAL REPORT.*—Not later than 2 years  
24 after the date of the enactment of this Act, the Sec-  
25 retary shall submit a report on the findings of the

1 *analysis conducted under subsection (a) to the Com-*  
2 *mittee on Ways and Means and the Committee on*  
3 *Commerce of the House of Representatives and the*  
4 *Committee on Finance of the Senate.*

5 (2) *CONTENTS.—Such report shall include spe-*  
6 *cific findings with respect to the expansion or modi-*  
7 *fication of coverage of medical nutrition therapy serv-*  
8 *ices by a registered dietitian for medicare bene-*  
9 *ficiaries regarding—*

10 (A) *cost to the medicare system;*

11 (B) *savings to the medicare system;*

12 (C) *clinical outcomes; and*

13 (D) *short and long term benefits to the med-*  
14 *icare system.*

15 (3) *FUNDING.—From funds appropriated to the*  
16 *Department of Health and Human Services for fiscal*  
17 *years 1998 and 1999, the Secretary shall provide for*  
18 *such funding as may be necessary for the conduct of*  
19 *the analysis by the National Academy of Sciences*  
20 *under this section.*

## 21 ***Subtitle C—Rural Initiatives***

### 22 ***SEC. 5151. SOLE COMMUNITY HOSPITALS.***

23 *Section 1886(b)(3)(C) (42 U.S.C. 1395ww(b)(3)(C)) is*  
24 *amended—*

1           (1) in clause (i), by redesignating subclauses (I)  
2           and (II) as items (aa) and (bb), respectively;

3           (2) by redesignating clauses (i), (ii), (iii), and  
4           (iv) as subclauses (I), (II), (III), and (IV), respec-  
5           tively;

6           (3) by striking “(C) In” and inserting “(C)(i)  
7           Subject to clause (ii), in”; and

8           (4) by striking the last sentence and inserting  
9           the following:

10          “(i)(I) There shall be substituted for the base cost re-  
11          porting period described in clause (i)(I) a hospital’s cost  
12          reporting period (if any) beginning during fiscal year 1987  
13          if such substitution results in an increase in the target  
14          amount for the hospital.

15          “(II) Beginning with discharges occurring in fiscal  
16          year 1998, there shall be substituted for the base cost report-  
17          ing period described in clause (i)(I) either—

18                 “(aa) the allowable operating costs of inpatient  
19                 hospital services (as defined in subsection (a)(4)) rec-  
20                 ognized under this title for the hospital’s cost report-  
21                 ing period (if any) beginning during fiscal year 1994  
22                 increased (in a compounded manner) by the applica-  
23                 ble percentage increases applied to the hospital under  
24                 this paragraph for discharges occurring in fiscal  
25                 years 1995, 1996, 1997, and 1998, or

1           “(bb) the allowable operating costs of inpatient  
 2           hospital services (as defined in subsection (a)(4)) rec-  
 3           ognized under this title for the hospital’s cost report-  
 4           ing period (if any) beginning during fiscal year 1995  
 5           increased (in a compounded manner) by the applica-  
 6           ble percentage increase applied to the hospital under  
 7           this paragraph for discharges occurring in fiscal  
 8           years 1995, 1996, 1997, and 1998,  
 9           if such substitution results in an increase in the target  
 10          amount for the hospital.”.

11 **SEC. 5152. MEDICARE-DEPENDENT, SMALL RURAL HOS-**  
 12 **PITAL PAYMENT EXTENSION.**

13           (a) *SPECIAL TREATMENT EXTENDED.*—

14                   (1)       *PAYMENT METHODOLOGY.*—Section  
 15           1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is  
 16           amended—

17                           (A) in clause (i), by striking “October 1,  
 18                           1994,” and inserting “October 1, 1994, or begin-  
 19                           ning on or after October 1, 1997, and before Oc-  
 20                           tober 1, 2001,”; and

21                           (B) in clause (ii)(II), by striking “October  
 22                           1, 1994,” and inserting “October 1, 1994, or be-  
 23                           ginning on or after October 1, 1997, and before  
 24                           October 1, 2001,”.

1           (2) *EXTENSION OF TARGET AMOUNT.*—Section  
2   1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is  
3   amended—

4           (A) in the matter preceding clause (i), by  
5   striking “September 30, 1994,” and inserting  
6   “September 30, 1994, and for cost reporting pe-  
7   riods beginning on or after October 1, 1997, and  
8   before October 1, 2001,”;

9           (B) in clause (ii), by striking “and” at the  
10   end;

11          (C) in clause (iii), by striking the period at  
12   the end and inserting “, and”; and

13          (D) by adding after clause (iii) the follow-  
14   ing new clause:

15          “(iv) with respect to discharges occurring during  
16   fiscal year 1998 through fiscal year 2000, the target  
17   amount for the preceding year increased by the appli-  
18   cable percentage increase under subparagraph  
19   (B)(iv).”.

20          (3) *PERMITTING HOSPITALS TO DECLINE RE-*  
21   *CLASSIFICATION.*—Section 13501(e)(2) of OBRA–93  
22   (42 U.S.C. 1395ww note) is amended by striking “or  
23   fiscal year 1994” and inserting “, fiscal year 1994,  
24   fiscal year 1998, fiscal year 1999, or fiscal year  
25   2000”.

1           (b) *EFFECTIVE DATE.*—*The amendments made by sub-*  
 2 *section (a) shall apply with respect to discharges occurring*  
 3 *on or after October 1, 1997.*

4 **SEC. 5153. MEDICARE RURAL HOSPITAL FLEXIBILITY PRO-**  
 5 **GRAM.**

6           (a) *MEDICARE RURAL HOSPITAL FLEXIBILITY PRO-*  
 7 *GRAM.*—*Section 1820 (42 U.S.C. 1395i-4) is amended to*  
 8 *read as follows:*

9           “*MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM*

10           “*SEC. 1820. (a) ESTABLISHMENT.*—*Any State that*  
 11 *submits an application in accordance with subsection (b)*  
 12 *may establish a medicare rural hospital flexibility program*  
 13 *described in subsection (c).*

14           “*(b) APPLICATION.*—*A State may establish a medicare*  
 15 *rural hospital flexibility program described in subsection*  
 16 *(c) if the State submits to the Secretary at such time and*  
 17 *in such form as the Secretary may require an application*  
 18 *containing—*

19           “*(1) assurances that the State—*

20           “*(A) has developed, or is in the process of*  
 21 *developing, a State rural health care plan that—*

22           “*(i) provides for the creation of 1 or*  
 23 *more rural health networks (as defined in*  
 24 *subsection (d)) in the State;*

25           “*(ii) promotes regionalization of rural*  
 26 *health services in the State; and*

1                   “(iii) improves access to hospital and  
2                   other health services for rural residents of  
3                   the State; and

4                   “(B) has developed the rural health care  
5                   plan described in subparagraph (A) in consulta-  
6                   tion with the hospital association of the State,  
7                   rural hospitals located in the State, and the  
8                   State Office of Rural Health (or, in the case of  
9                   a State in the process of developing such plan,  
10                  that assures the Secretary that the State will  
11                  consult with its State hospital association, rural  
12                  hospitals located in the State, and the State Of-  
13                  fice of Rural Health in developing such plan);

14                  “(2) assurances that the State has designated  
15                  (consistent with the rural health care plan described  
16                  in paragraph (1)(A)), or is in the process of so des-  
17                  ignating, rural nonprofit or public hospitals or facili-  
18                  ties located in the State as critical access hospitals;  
19                  and

20                  “(3) such other information and assurances as  
21                  the Secretary may require.

22                  “(c) *MEDICARE RURAL HOSPITAL FLEXIBILITY PRO-*  
23 *GRAM DESCRIBED.*—

24                  “(1) *IN GENERAL.*—A State that has submitted  
25                  an application in accordance with subsection (b),

1       *may establish a medicare rural hospital flexibility*  
2       *program that provides that—*

3               “(A) *the State shall develop at least 1 rural*  
4               *health network (as defined in subsection (d)) in*  
5               *the State; and*

6               “(B) *at least 1 facility in the State shall be*  
7               *designated as a critical access hospital in accord-*  
8               *ance with paragraph (2).*

9       “(2) *STATE DESIGNATION OF FACILITIES.—*

10              “(A) *IN GENERAL.—A State may designate*  
11              *1 or more facilities as a critical access hospital*  
12              *in accordance with subparagraph (B).*

13              “(B) *CRITERIA FOR DESIGNATION AS CRITI-*  
14              *CAL ACCESS HOSPITAL.—A State may designate*  
15              *a facility as a critical access hospital if the facil-*  
16              *ity—*

17                      “(i) *is a nonprofit or public hospital*  
18                      *and is located in a county (or equivalent*  
19                      *unit of local government) in a rural area*  
20                      *(as defined in section 1886(d)(2)(D)) that—*

21                              “(I) *is located more than a 35-*  
22                              *mile drive from a hospital, or another*  
23                              *facility described in this subsection; or*

1                   “(II) is certified by the State as  
2                   being a necessary provider of health  
3                   care services to residents in the area;

4                   “(ii) makes available 24-hour emer-  
5                   gency care services that a State determines  
6                   are necessary for ensuring access to emer-  
7                   gency care services in each area served by  
8                   a critical access hospital;

9                   “(iii) provides not more than 15 acute  
10                  care inpatient beds (meeting such standards  
11                  as the Secretary may establish) for provid-  
12                  ing inpatient care for a period not to exceed  
13                  96 hours (unless a longer period is required  
14                  because transfer to a hospital is precluded  
15                  because of inclement weather or other emer-  
16                  gency conditions), except that a peer review  
17                  organization or equivalent entity may, on  
18                  request, waive the 96-hour restriction on a  
19                  case-by-case basis;

20                  “(iv) meets such staffing requirements  
21                  as would apply under section 1861(e) to a  
22                  hospital located in a rural area, except  
23                  that—

24                                  “(I) the facility need not meet  
25                                  hospital standards relating to the num-

1            *ber of hours during a day, or days*  
2            *during a week, in which the facility*  
3            *must be open and fully staffed, except*  
4            *insofar as the facility is required to*  
5            *make available emergency care services*  
6            *as determined under clause (ii) and*  
7            *must have nursing services available*  
8            *on a 24-hour basis, but need not other-*  
9            *wise staff the facility except when an*  
10           *inpatient is present;*

11                    *“(II) the facility may provide any*  
12                    *services otherwise required to be pro-*  
13                    *vided by a full-time, on site dietitian,*  
14                    *pharmacist, laboratory technician,*  
15                    *medical technologist, and radiological*  
16                    *technologist on a part-time, off site*  
17                    *basis under arrangements as defined in*  
18                    *section 1861(w)(1); and*

19                    *“(III) the inpatient care described*  
20                    *in clause (iii) may be provided by a*  
21                    *physician’s assistant, nurse practi-*  
22                    *tioner, or clinical nurse specialist sub-*  
23                    *ject to the oversight of a physician who*  
24                    *need not be present in the facility; and*

1                   “(v) meets the requirements of section  
2                   1861(aa)(2)(I).

3                   “(d) *DEFINITION OF RURAL HEALTH NETWORK.*—

4                   “(1) *IN GENERAL.*—*In this section, the term*  
5                   *‘rural health network’ means, with respect to a State,*  
6                   *an organization consisting of—*

7                   “(A) *at least 1 facility that the State has*  
8                   *designated or plans to designate as a critical ac-*  
9                   *cess hospital; and*

10                   “(B) *at least 1 hospital that furnishes acute*  
11                   *care services.*

12                   “(2) *AGREEMENTS.*—

13                   “(A) *IN GENERAL.*—*Each critical access*  
14                   *hospital that is a member of a rural health net-*  
15                   *work shall have an agreement with respect to*  
16                   *each item described in subparagraph (B) with at*  
17                   *least 1 hospital that is a member of the network.*

18                   “(B) *ITEMS DESCRIBED.*—*The items de-*  
19                   *scribed in this subparagraph are the following:*

20                   “(i) *Patient referral and transfer.*

21                   “(ii) *The development and use of com-*  
22                   *munications systems including (where fea-*  
23                   *sible)—*

24                   “(I) *telemetry systems; and*

1                   “(II) systems for electronic shar-  
2                   ing of patient data.

3                   “(iii) The provision of emergency and  
4                   non-emergency transportation among the  
5                   facility and the hospital.

6                   “(C) CREDENTIALING AND QUALITY ASSUR-  
7                   ANCE.—Each critical access hospital that is a  
8                   member of a rural health network shall have an  
9                   agreement with respect to credentialing and  
10                  quality assurance with at least—

11                  “(i) 1 hospital that is a member of the  
12                  network;

13                  “(ii) 1 peer review organization or  
14                  equivalent entity; or

15                  “(iii) 1 other appropriate and quali-  
16                  fied entity identified in the State rural  
17                  health care plan.

18                  “(e) CERTIFICATION BY THE SECRETARY.—The Sec-  
19                  retary shall certify a facility as a critical access hospital  
20                  if the facility—

21                  “(1) is located in a State that has established a  
22                  medicare rural hospital flexibility program in accord-  
23                  ance with subsection (c);

24                  “(2) is designated as a critical access hospital by  
25                  the State in which it is located; and

1           “(3) meets such other criteria as the Secretary  
2           may require.

3           “(f) *PERMITTING MAINTENANCE OF SWING BEDS.*—

4           *Nothing in this section shall be construed to prohibit a criti-*  
5           *cal access hospital from entering into an agreement with*  
6           *the Secretary under section 1883 under which the facility’s*  
7           *inpatient hospital facilities are used for the furnishing of*  
8           *extended care services.*

9           “(g) *GRANTS.*—

10           “(1) *MEDICARE RURAL HOSPITAL FLEXIBILITY*  
11           *PROGRAM.*—*The Secretary may award grants to*  
12           *States that have submitted applications in accordance*  
13           *with subsection (b) for—*

14                   “(A) *engaging in activities relating to plan-*  
15                   *ning and implementing a rural health care plan;*

16                   “(B) *engaging in activities relating to plan-*  
17                   *ning and implementing rural health networks;*  
18                   *and*

19                   “(C) *designating facilities as critical access*  
20                   *hospitals.*

21           “(2) *RURAL EMERGENCY MEDICAL SERVICES.*—

22                   “(A) *IN GENERAL.*—*The Secretary may*  
23                   *award grants to States that have submitted ap-*  
24                   *plications in accordance with subparagraph (B)*  
25                   *for the establishment or expansion of a program*

1           *for the provision of rural emergency medical*  
2           *services.*

3           “(B) *APPLICATION.*—*An application is in*  
4           *accordance with this subparagraph if the State*  
5           *submits to the Secretary at such time and in*  
6           *such form as the Secretary may require an ap-*  
7           *plication containing the assurances described in*  
8           *subparagraphs (A)(ii), (A)(iii), and (B) of sub-*  
9           *section (b)(1) and paragraph (3) of that sub-*  
10          *section.*

11          “(h) *GRANDFATHERING OF CERTAIN FACILITIES.*—

12           “(1) *IN GENERAL.*—*Any medical assistance facil-*  
13          *ity operating in Montana and any rural primary*  
14          *care hospital designated by the Secretary under this*  
15          *section prior to the date of the enactment of the Bal-*  
16          *anced Budget Act of 1997 shall be deemed to have*  
17          *been certified by the Secretary under subsection (e) as*  
18          *a critical access hospital if such facility or hospital*  
19          *is otherwise eligible to be designated by the State as*  
20          *a critical access hospital under subsection (c).*

21           “(2) *CONTINUATION OF MEDICAL ASSISTANCE FA-*  
22          *CILITY AND RURAL PRIMARY CARE HOSPITAL*  
23          *TERMS.*—*Notwithstanding any other provision of this*  
24          *title, with respect to any medical assistance facility*  
25          *or rural primary care hospital described in para-*

1        *graph (1), any reference in this title to a ‘critical ac-*  
2        *cess hospital’ shall be deemed to be a reference to a*  
3        *‘medical assistance facility’ or ‘rural primary care*  
4        *hospital’.*

5        *“(i) WAIVER OF CONFLICTING PART A PROVISIONS.—*  
6        *The Secretary is authorized to waive such provisions of this*  
7        *part and part D as are necessary to conduct the program*  
8        *established under this section.*

9        *“(j) AUTHORIZATION OF APPROPRIATIONS.—There are*  
10       *authorized to be appropriated from the Federal Hospital*  
11       *Insurance Trust Fund for making grants to all States*  
12       *under subsection (g), \$25,000,000 in each of the fiscal years*  
13       *1998 through 2002.”.*

14       *(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—*  
15       *Not later than January 1, 1998, the Administrator of the*  
16       *Health Care Financing Administration shall submit to*  
17       *Congress a report on the feasibility of, and administrative*  
18       *requirements necessary to establish an alternative for cer-*  
19       *tain medical diagnoses (as determined by the Adminis-*  
20       *trator) to the 96-hour limitation for inpatient care in criti-*  
21       *cal access hospitals required by section 1820(c)(2)(B)(iii)*  
22       *of the Social Security Act (42 U.S.C. 1395i–4), as added*  
23       *by subsection (a) of this section.*



1           (A) in subsection (a)(8), by striking “72”  
2           and inserting “96”; and

3           (B) by amending subsection (l) to read as  
4           follows:

5           *“Payment for Inpatient Critical Access Hospital Services*  
6           *“(l) The amount of payment under this part for inpa-*  
7           *tient critical access hospital services is the reasonable costs*  
8           *of the critical access hospital in providing such services.”.*

9           (4) *PAYMENT CONTINUED TO DESIGNATED*  
10          *EACHS.—Section 1886(d)(5)(D) of the Social Security*  
11          *Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—*

12           (A) in clause (iii)(III), by inserting “as in  
13           effect on September 30, 1997” before the period  
14           at the end; and

15           (B) in clause (v)—

16           (i) by inserting “as in effect on Sep-  
17           tember 30, 1997” after “1820(i)(1)”; and

18           (ii) by striking “1820(g)” and insert-  
19           ing “1820(d)”.

20          (5) *PART B PAYMENT.—Section 1834(g) of the*  
21          *Social Security Act (42 U.S.C. 1395m(g)) is amended*  
22          *to read as follows:*

23          *“(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS*  
24          *HOSPITAL SERVICES.—The amount of payment under this*  
25          *part for outpatient critical access hospital services is the*

1 *reasonable costs of the critical access hospital in providing*  
2 *such services.”.*

3 *(d) EFFECTIVE DATE.—The amendments made by this*  
4 *section shall apply to services furnished on or after October*  
5 *1, 1997.*

6 **SEC. 5154. PROHIBITING DENIAL OF REQUEST BY RURAL**  
7 **REFERRAL CENTERS FOR RECLASSIFICATION**  
8 **ON BASIS OF COMPARABILITY OF WAGES.**

9 *(a) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C.*  
10 *1395ww(d)(10)(D)) is amended—*

11 *(1) by redesignating clause (iii) as clause (iv);*  
12 *and*

13 *(2) by inserting after clause (ii) the following*  
14 *new clause:*

15 *“(iii) Under the guidelines published by the Secretary*  
16 *under clause (i), in the case of a hospital which has ever*  
17 *been classified by the Secretary as a rural referral center*  
18 *under paragraph (5)(C), the Board may not reject the ap-*  
19 *plication of the hospital under this paragraph on the basis*  
20 *of any comparison between the average hourly wage of the*  
21 *hospital and the average hourly wage of hospitals in the*  
22 *area in which it is located.”.*

23 *(b) CONTINUING TREATMENT OF PREVIOUSLY DES-*  
24 *IGNATED CENTERS.—*

1           (1) *IN GENERAL.*—*Any hospital classified as a*  
2 *rural referral center by the Secretary of Health and*  
3 *Human Services under section 1886(d)(5)(C) of the*  
4 *Social Security Act for fiscal year 1991 shall be clas-*  
5 *sified as such a rural referral center for fiscal year*  
6 *1998 and each subsequent fiscal year.*

7           (2) *BUDGET NEUTRALITY.*—*The provisions of*  
8 *section 1886(d)(8)(D) of the Social Security Act shall*  
9 *apply to reclassifications made pursuant to para-*  
10 *graph (1) in the same manner as such provisions*  
11 *apply to a reclassification under section 1886(d)(10)*  
12 *of such Act.*

13 **SEC. 5155. RURAL HEALTH CLINIC SERVICES.**

14           (a) *PER-VISIT PAYMENT LIMITS FOR PROVIDER-*  
15 *BASED CLINICS.*—

16           (1) *EXTENSION OF LIMIT.*—

17           (A) *IN GENERAL.*—*The matter in section*  
18 *1833(f) (42 U.S.C. 1395l(f)) preceding para-*  
19 *graph (1) is amended by striking “independent*  
20 *rural health clinics” and inserting “rural health*  
21 *clinics (other than such clinics in rural hospitals*  
22 *with less than 50 beds)”.*

23           (B) *EFFECTIVE DATE.*—*The amendment*  
24 *made by subparagraph (A) applies to services*  
25 *furnished after 1997.*

1           (2) *TECHNICAL CLARIFICATION.*—Section  
2           1833(f)(1) (42 U.S.C. 1395l(f)(1)) is amended by in-  
3           serting “per visit” after “\$46”.

4           (b) *ASSURANCE OF QUALITY SERVICES.*—

5           (1) *IN GENERAL.*—Subparagraph (I) of the first  
6           sentence of section 1861(aa)(2) (42 U.S.C.  
7           1395x(aa)(2)) is amended to read as follows:

8                   “(I) has a quality assessment and perform-  
9                   ance improvement program, and appropriate  
10                  procedures for review of utilization of clinic serv-  
11                  ices, as the Secretary may specify.”

12          (2) *EFFECTIVE DATE.*—The amendment made by  
13          paragraph (1) shall take effect on January 1, 1998.

14          (c) *WAIVER OF CERTAIN STAFFING REQUIREMENTS*  
15 *LIMITED TO CLINICS IN PROGRAM.*—

16          (1) *IN GENERAL.*—Section 1861(aa)(7)(B)) (42  
17          U.S.C. 1395x(aa)(7)(B)) is amended by inserting be-  
18          fore the period “, or if the facility has not yet been  
19          determined to meet the requirements (including sub-  
20          paragraph (J) of the first sentence of paragraph (2))  
21          of a rural health clinic.”

22          (2) *EFFECTIVE DATE.*—The amendment made by  
23          paragraph (1) applies to waiver requests made after  
24          1997.

1       (d) *REFINEMENT OF SHORTAGE AREA REQUIRE-*  
2 *MENTS.—*

3           (1) *DESIGNATION REVIEWED TRIENNIALLY.—Section*  
4 *1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amend-*  
5 *ed in the second sentence, in the matter in clause (i)*  
6 *preceding subclause (I)—*

7               (A) *by striking “and that is designated”*  
8 *and inserting “and that, within the previous 3-*  
9 *year period, has been designated”; and*

10              (B) *by striking “or that is designated” and*  
11 *inserting “or designated”.*

12           (2) *AREA MUST HAVE SHORTAGE OF HEALTH*  
13 *CARE PRACTITIONERS.—Section 1861(aa)(2) (42*  
14 *U.S.C. 1395x(aa)(2)), as amended by paragraph (1),*  
15 *is further amended in the second sentence, in the mat-*  
16 *ter in clause (i) preceding subclause (I)—*

17               (A) *by striking the comma after “personal*  
18 *health services”; and*

19               (B) *by inserting “and in which there are*  
20 *insufficient numbers of needed health care prac-*  
21 *titioners (as determined by the Secretary),” after*  
22 *“Bureau of the Census)”.*

23           (3) *PREVIOUSLY QUALIFYING CLINICS GRAND-*  
24 *FATHERED ONLY TO PREVENT SHORTAGE.—*

1           (A) *IN GENERAL.*—Section 1861(aa)(2) (42  
2 U.S.C. 1395x(aa)(2)) is amended in the third  
3 sentence by inserting before the period “if it is  
4 determined, in accordance with criteria estab-  
5 lished by the Secretary in regulations, to be es-  
6 sential to the delivery of primary care services  
7 that would otherwise be unavailable in the geo-  
8 graphic area served by the clinic”.

9           (B) *PAYMENT FOR CERTAIN PHYSICIAN AS-*  
10 *SISTANT SERVICES.*—

11           (i) *IN GENERAL.*—With respect to any  
12 regulations issued to implement section  
13 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) (as  
14 amended by subparagraph (A)), the Sec-  
15 retary of Health and Human Services shall  
16 include in such regulations provisions pro-  
17 viding for the direct payment to the physi-  
18 cian assistant for any physician assistant  
19 services as described in clause (ii).

20           (ii) *SERVICES DESCRIBED.*—Services  
21 described in this clause are physician assist-  
22 ant services provided at a rural health clin-  
23 ic that is principally owned, as determined  
24 by the Secretary, by a physician assist-  
25 ant—

1                   (I) as of the date of enactment of  
2                   this Act; and

3                   (II) continuously from such date  
4                   through the date on which such services  
5                   are provided.

6                   (iii) SUNSET.—The provisions of this  
7                   subparagraph shall not apply after Janu-  
8                   ary 1, 2003.

9                   (4) EFFECTIVE DATES; IMPLEMENTING REGULA-  
10                  TIONS.—

11                   (A) IN GENERAL.—Except as otherwise pro-  
12                   vided, the amendments made by the preceding  
13                   paragraphs take effect on January 1 of the first  
14                   calendar year beginning at least 1 month after  
15                   enactment of this Act.

16                   (B) CURRENT RURAL HEALTH CLINICS.—  
17                   The amendments made by the preceding para-  
18                   graphs take effect, with respect to entities that  
19                   are rural health clinics under title XVIII of the  
20                   Social Security Act (42 U.S.C. 1395 et seq.) on  
21                   the date of enactment of this Act, on January 1  
22                   of the second calendar year following the cal-  
23                   endar year specified in subparagraph (A).

24                   (C) GRANDFATHERED CLINICS.—

1                   (i) *IN GENERAL.*—*The amendment*  
2                   *made by paragraph (3) shall take effect on*  
3                   *the effective date of regulations issued by the*  
4                   *Secretary under clause (ii).*

5                   (ii) *REGULATIONS.*—*The Secretary*  
6                   *shall issue final regulations implementing*  
7                   *paragraph (3) that shall take effect no later*  
8                   *than January 1 of the third calendar year*  
9                   *beginning at least 1 month after the date of*  
10                  *enactment of this Act.*

11 **SEC. 5156. MEDICARE REIMBURSEMENT FOR TELEHEALTH**  
12 **SERVICES.**

13               (a) *IN GENERAL.*—*Not later than July 1, 1998, the*  
14 *Secretary of Health and Human Services (in this section*  
15 *referred to as the “Secretary”) shall make payments from*  
16 *the Federal Supplementary Medical Insurance Trust Fund*  
17 *under part B of title XVIII of the Social Security Act (42*  
18 *U.S.C. 1395j et seq.) in accordance with the methodology*  
19 *described in subsection (b) for professional consultation via*  
20 *telecommunications systems with a health care provider*  
21 *furnishing a service for which payment may be made under*  
22 *such part to a beneficiary under the medicare program re-*  
23 *siding in a county in a rural area (as defined in section*  
24 *1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)))*  
25 *that is designated as a health professional shortage area*

1 *under section 332(a)(1)(A) of the Public Health Service Act*  
2 *(42 U.S.C. 254e(a)(1)(A)) or a rural county that is not ad-*  
3 *acent to a Metropolitan Statistical Area, notwithstanding*  
4 *that the individual health care provider providing the pro-*  
5 *fessional consultation is not at the same location as the*  
6 *health care provider furnishing the service to that bene-*  
7 *ficiary.*

8       **(b) METHODOLOGY FOR DETERMINING AMOUNT OF**  
9 *PAYMENTS.—Taking into account the findings of the report*  
10 *required under section 192 of the Health Insurance Port-*  
11 *ability and Accountability Act of 1996 (Public Law 104–*  
12 *191; 110 Stat. 1988), the findings of the report required*  
13 *under paragraph (c), and any other findings related to the*  
14 *clinical efficacy and cost-effectiveness of telehealth applica-*  
15 *tions, the Secretary shall establish a methodology for deter-*  
16 *mining the amount of payments made under subsection (a)*  
17 *within the following parameters:*

18           (1) *The payment shall include a bundled pay-*  
19 *ment to be shared between the referring health care*  
20 *provider and the consulting health care provider. The*  
21 *amount of such bundled payment shall not be greater*  
22 *than the current fee schedule of the consulting health*  
23 *care provider for the health care services provided.*

24           (2) *The payment shall not include any reim-*  
25 *bursement for any line charges or any facility fees.*

1           (c) *SUPPLEMENTAL REPORT.*—Not later than January  
2 1, 1998, the Secretary shall submit a report to Congress  
3 which shall contain a detailed analysis of—

4           (1) *how telemedicine and telehealth systems are*  
5 *expanding access to health care services;*

6           (2) *the clinical efficacy and cost-effectiveness of*  
7 *telemedicine and telehealth applications;*

8           (3) *the quality of telemedicine and telehealth*  
9 *services delivered; and*

10           (4) *the reasonable cost of telecommunications*  
11 *charges incurred in practicing telemedicine and tele-*  
12 *health in rural, frontier, and underserved areas.*

13           (d) *EXPANSION OF TELEHEALTH SERVICES FOR CER-*  
14 *TAIN MEDICARE BENEFICIARIES.*—

15           (1) *IN GENERAL.*—Not later than January 1,  
16 1999, the Secretary shall submit a report to Congress  
17 that examines the possibility of making payments  
18 from the Federal Supplementary Medical Insurance  
19 Trust Fund under part B of title XVIII of the Social  
20 Security Act (42 U.S.C. 1395j et seq.) for professional  
21 consultation via telecommunications systems with a  
22 health care provider furnishing a service for which  
23 payment may be made under such part to a bene-  
24 ficiary described in paragraph (2), notwithstanding  
25 that the individual health care provider providing the

1 professional consultation is not at the same location  
2 as the health care provider furnishing the service to  
3 that beneficiary.

4 (2) *BENEFICIARY DESCRIBED.*—A beneficiary de-  
5 scribed in this paragraph is a beneficiary under the  
6 medicare program under title XVIII of the Social Se-  
7 curity Act (42 U.S.C. 1395 et seq.) who does not re-  
8 side in a rural area (as so defined) that is designated  
9 as a health professional shortage area under section  
10 332(a)(1)(A) of the Public Health Service Act (42  
11 U.S.C. 254e(a)(1)(A)), who is homebound or nursing  
12 homebound, and for whom being transferred for health  
13 care services imposes a serious hardship.

14 (3) *REPORT.*—The report described in paragraph  
15 (1) shall contain a detailed statement of the potential  
16 costs to the medicare program of making the pay-  
17 ments described in that paragraph using various re-  
18 imbursement schemes.

19 **SEC. 5157. TELEMEDICINE, INFORMATICS, AND EDUCATION**  
20 **DEMONSTRATION PROJECT.**

21 (a) *PURPOSE AND AUTHORIZATION.*—

22 (1) *IN GENERAL.*—Not later than 9 months after  
23 the date of enactment of this section, the Secretary of  
24 Health and Human Services (in this section referred

1       to as the “Secretary”) shall conduct a demonstration  
2       project described in paragraph (2).

3               (2) *DESCRIPTION OF PROJECT.*—The demonstra-  
4       tion project described in this paragraph is a single  
5       demonstration project to study the use of eligible  
6       health care provider telemedicine networks to imple-  
7       ment high-capacity computing and advanced net-  
8       works to improve primary care (and prevent health  
9       care complications), improve access to specialty care,  
10      and provide educational and training support to  
11      rural practitioners.

12              (3) *WAIVER AUTHORITY.*—The Secretary shall  
13      waive compliance with the requirements of titles XI,  
14      XVIII, and XIX of the Social Security Act (42 U.S.C.  
15      1301 et seq., 1395 et seq., 1396 et seq.) to such extent  
16      and for such period as the Secretary determines is  
17      necessary to conduct the demonstration project.

18              (4) *DURATION OF PROJECT.*—The project shall be  
19      conducted for a 5-year period.

20              (b) *OBJECTIVES OF PROJECT.*—The objectives of the  
21      demonstration project conducted under this section shall in-  
22      clude the following:

23                      (1) *The improvement of patient access to pri-*  
24      *mary and specialty care and the reduction of inap-*

1        *appropriate hospital visits in order to improve patient*  
2        *quality-of-life and reduce overall health care costs.*

3            (2) *The development of a curriculum to train*  
4        *and development of standards for required credentials*  
5        *and licensure of health professionals (particularly*  
6        *primary care health professionals) in the use of medi-*  
7        *cal informatics and telecommunications.*

8            (3) *The demonstration of the application of ad-*  
9        *vanced technologies such as video-conferencing from a*  
10       *patient's home and remote monitoring of a patient's*  
11       *medical condition.*

12           (4) *The development of standards in the applica-*  
13       *tion of telemedicine and medical informatics.*

14           (5) *The development of a model for cost-effective*  
15       *delivery of primary and related care in both a man-*  
16       *aged care environment and in a fee-for-service envi-*  
17       *ronment.*

18        (c) *ELIGIBLE HEALTH CARE PROVIDER TELEMEDI-*  
19       *CINE NETWORK DEFINED.—In this section, the term “eligi-*  
20       *ble health care provider telemedicine network” means a con-*  
21       *sortium that—*

22           (1) *includes—*

23                (A) *at least 1 tertiary care hospital with an*  
24                *existing telemedicine network with an existing*  
25                *relationship with a medical school; and*

1           (B) not more than 6 facilities, including at  
2           least 3 rural referral centers, in rural areas; and  
3           (2) meets the following requirements:

4           (A) The consortium is located in a region  
5           that is predominantly rural.

6           (B) The consortium submits to the Sec-  
7           retary an application at such time, in such  
8           manner, and containing such information as the  
9           Secretary may require, including a description  
10          of the use the consortium would make of any  
11          amounts received under the demonstration  
12          project and the source and amount of non-Fed-  
13          eral funds used in the project.

14          (C) The consortium guarantees that it will  
15          be responsible for payment for all costs of the  
16          project that are not paid under this section and  
17          that the maximum amount of payment that may  
18          be made to the consortium under this section  
19          shall not exceed the amount specified in sub-  
20          section (d)(3).

21          (d) *COVERAGE AS MEDICARE PART B SERVICES.*—

22                 (1) *IN GENERAL.*—Subject to the succeeding pro-  
23                 visions of this section, services for medicare bene-  
24                 ficiaries furnished under the demonstration project  
25                 shall be considered to be services covered under part

1 *B of title XVIII of the Social Security Act (42 U.S.C.*  
2 *1395j).*

3 (2) *PAYMENTS.—*

4 (A) *IN GENERAL.—Subject to paragraph*  
5 *(3), payment for services provided under this sec-*  
6 *tion shall be made at a rate of 50 percent of the*  
7 *costs that are reasonable and related to the pro-*  
8 *vision of such services. In computing such costs,*  
9 *the Secretary shall include costs described in sub-*  
10 *paragraph (B), but may not include costs de-*  
11 *scribed in subparagraph (C).*

12 (B) *COSTS THAT MAY BE INCLUDED.—The*  
13 *costs described in this subparagraph are the per-*  
14 *missible costs (as recognized by the Secretary) for*  
15 *the following:*

16 (i) *The acquisition of telemedicine*  
17 *equipment for use in patients' homes (but*  
18 *only in the case of patients located in medi-*  
19 *cally underserved areas).*

20 (ii) *Curriculum development and*  
21 *training of health professionals in medical*  
22 *informatics and telemedicine.*

23 (iii) *Payment of telecommunications*  
24 *costs including salaries, maintenance of*  
25 *equipment, and costs of telecommunications*

1           *between patients' homes and the eligible net-*  
2           *work and between the network and other en-*  
3           *tities under the arrangements described in*  
4           *subsection (c).*

5           *(iv) Payments to practitioners and*  
6           *providers under the medicare programs.*

7           *(C) OTHER COSTS.—The costs described in*  
8           *this subparagraph include the following:*

9           *(i) The purchase or installation of*  
10          *transmission equipment (other than such*  
11          *equipment used by health professionals to*  
12          *deliver medical informatics services under*  
13          *the project).*

14          *(ii) The establishment or operation of*  
15          *a telecommunications common carrier net-*  
16          *work.*

17          *(iii) Construction that is limited to*  
18          *minor renovations related to the installa-*  
19          *tion of equipment.*

20          *(3) LIMITATION AND FUNDS.—The Secretary*  
21          *shall make the payments under the demonstration*  
22          *project conducted under this section from the Federal*  
23          *Supplementary Medical Insurance Trust Fund, estab-*  
24          *lished under section 1841 of the Social Security Act*  
25          *(42 U.S.C. 1395t), except that the total amount of the*

1        *payments that may be made by the Secretary under*  
2        *this section shall not exceed \$27,000,000.*

3        ***Subtitle D—Anti-Fraud and Abuse***  
4        ***Provisions and Improvements in***  
5        ***Protecting Program Integrity***

6        ***CHAPTER 1—REVISIONS TO SANCTIONS***  
7        ***FOR FRAUD AND ABUSE***

8        ***SEC. 5201. AUTHORITY TO REFUSE TO ENTER INTO MEDI-***  
9        ***CARE AGREEMENTS WITH INDIVIDUALS OR***  
10       ***ENTITIES CONVICTED OF FELONIES.***

11       *(a) MEDICARE PART A.—Section 1866(b)(2) (42*  
12 *U.S.C. 1395cc(b)(2)) is amended—*

13            *(1) in subparagraph (B), by striking “or” at the*  
14            *end;*

15            *(2) in subparagraph (C), by striking the period*  
16            *at the end and inserting “, or”; and*

17            *(3) by adding at the end the following:*

18                    *“(D) has ascertained that the provider has*  
19                    *been convicted of a felony under Federal or State*  
20                    *law for an offense that the Secretary determines*  
21                    *is inconsistent with the best interests of program*  
22                    *beneficiaries.”.*

23        *(b) MEDICARE PART B.—Section 1842 (42 U.S.C.*  
24 *1395u) is amended by adding at the end the following:*

1       “(s) *The Secretary may refuse to enter into an agree-*  
2 *ment with a physician or supplier under subsection (h),*  
3 *or may terminate or refuse to renew such agreement, in*  
4 *the event that such physician or supplier has been convicted*  
5 *of a felony under Federal or State law for an offense which*  
6 *the Secretary determines is inconsistent with the best inter-*  
7 *ests of program beneficiaries.”.*

8       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
9 *section shall take effect on the date of the enactment of this*  
10 *Act and apply to the entry and renewal of contracts on*  
11 *or after such date.*

12 **SEC. 5202. EXCLUSION OF ENTITY CONTROLLED BY FAMILY**  
13 **MEMBER OF A SANCTIONED INDIVIDUAL.**

14       (a) *IN GENERAL.*—*Section 1128 (42 U.S.C. 1320a-7)*  
15 *is amended—*

16           (1) *in subsection (b)(8)(A)—*

17                   (A) *in clause (i), by striking “or” at the*  
18 *end;*

19                   (B) *in clause (ii), by striking the dash at*  
20 *the end and inserting “; or”; and*

21                   (C) *by inserting after clause (ii) the follow-*  
22 *ing:*

23                           “(iii) *who was described in clause (i) but is*  
24 *no longer so described because of a transfer of*  
25 *ownership or control interest, in anticipation of*

1           *(or following) a conviction, assessment, or exclu-*  
2           *sion described in subparagraph (B) against the*  
3           *person, to an immediate family member (as de-*  
4           *fined in subsection (j)(1)) or a member of the*  
5           *household of the person (as defined in subsection*  
6           *(j)(2)) who continues to maintain an interest de-*  
7           *scribed in such clause—”; and*

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

9           “(j) *DEFINITION OF IMMEDIATE FAMILY MEMBER AND*  
10          *MEMBER OF HOUSEHOLD.—For purposes of subsection*  
11          *(b)(8)(A)(iii):*

12                 “(1) *The term ‘immediate family member’*  
13                 *means, with respect to a person—*

14                         “(A) *the husband or wife of the person;*

15                         “(B) *the natural or adoptive parent, child,*  
16                         *or sibling of the person;*

17                         “(C) *the stepparent, stepchild, stepbrother,*  
18                         *or stepsister of the person;*

19                         “(D) *the father-, mother-, daughter-,*  
20                         *son-, brother-, or sister-in-law of the person;*

21                         “(E) *the grandparent or grandchild of the*  
22                         *person; and*

23                         “(F) *the spouse of a grandparent or grand-*  
24                         *child of the person.*

1           “(2) *The term ‘member of the household’ means,*  
2           *with respect to any person, any individual sharing a*  
3           *common abode as part of a single family unit with*  
4           *the person, including domestic employees and others*  
5           *who live together as a family unit, but not including*  
6           *a roomer or boarder.”.*

7           ***(b) EFFECTIVE DATE.***—*The amendments made by sub-*  
8           *section (a) shall take effect on the date that is 45 days after*  
9           *the date of the enactment of this Act.*

10   ***SEC. 5203. IMPOSITION OF CIVIL MONEY PENALTIES.***

11           ***(a) CIVIL MONEY PENALTIES FOR PERSONS THAT***  
12           ***CONTRACT WITH EXCLUDED INDIVIDUALS.***—*Section*  
13           ***1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—***

14                   ***(1) in paragraph (4), by striking “or” at the***  
15                   ***end;***

16                   ***(2) in paragraph (5), by adding “or” at the end;***  
17                   ***and***

18                   ***(3) by inserting after paragraph (5) the follow-***  
19                   ***ing:***

20                           ***“(6) arranges or contracts (by employment or***  
21                           ***otherwise) with an individual or entity that the per-***  
22                           ***son knows or should know is excluded from participa-***  
23                           ***tion in a Federal health care program (as defined in***  
24                           ***section 1128B(f)), for the provision of items or serv-***

1        *ices for which payment may be made under such a*  
2        *program;”.*

3        *(b) CIVIL MONEY PENALTIES FOR SERVICES ORDERED*  
4        *OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL OR EN-*  
5        *TITY.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is*  
6        *amended—*

7                *(1) in subparagraph (D)—*

8                        *(A) by inserting “, ordered, or prescribed by*  
9                        *such person” after “other item or service fur-*  
10                        *nished”;*

11                        *(B) by inserting “(pursuant to this title or*  
12                        *title XVIII)” after “period in which the person*  
13                        *was excluded”;*

14                        *(C) by striking “pursuant to a determina-*  
15                        *tion by the Secretary” and all that follows*  
16                        *through “the provisions of section 1842(j)(2)”;*  
17                        *and*

18                        *(D) by striking “or” at the end;*

19                        *(2) by redesignating subparagraph (E) as sub-*  
20                        *paragraph (F); and*

21                        *(3) by inserting after subparagraph (D) the fol-*  
22                        *lowing:*

23                                *“(E) is for a medical or other item or serv-*  
24                                *ice ordered or prescribed by a person excluded*  
25                                *pursuant to this title or title XVIII from the pro-*

1           *gram under which the claim was made, and the*  
2           *person furnishing such item or service knows or*  
3           *should know of such exclusion, or”.*

4           *(c) CIVIL MONEY PENALTIES FOR KICKBACKS.—*

5           *(1) PERMITTING SECRETARY TO IMPOSE CIVIL*  
6           *MONEY PENALTY.—Section 1128A(a) (42 U.S.C.*  
7           *1320a–7a(a)), as amended by subsection (a), is*  
8           *amended—*

9                   *(A) in paragraph (5), by striking “or” at*  
10           *the end;*

11                   *(B) in paragraph (6), by adding “or” at*  
12           *the end; and*

13                   *(C) by adding after paragraph (6) the fol-*  
14           *lowing:*

15                   *“(7) commits an act described in paragraph (1)*  
16           *or (2) of section 1128B(b);”.*

17           *(2) DESCRIPTION OF CIVIL MONEY PENALTY AP-*  
18           *PLICABLE.—Section 1128A(a) (42 U.S.C. 1320a–*  
19           *7a(a)), as amended by paragraph (1), is amended in*  
20           *the matter following paragraph (7)—*

21                   *(A) by striking “occurs.” and inserting*  
22           *“occurs; or in cases under paragraph (7),*  
23           *\$50,000 for each such act).”; and*

24                   *(B) by inserting after “of such claim” the*  
25           *following: “(or, in cases under paragraph (7),*

1           *damages of not more than 3 times the total*  
 2           *amount of remuneration offered, paid, solicited,*  
 3           *or received, without regard to whether a portion*  
 4           *of such remuneration was offered, paid, solicited,*  
 5           *or received for a lawful purpose)”.’*

6           *(d) EFFECTIVE DATES.—*

7                 *(1) CONTRACTS WITH EXCLUDED PERSONS.—The*  
 8           *amendments made by subsection (a) shall apply to*  
 9           *arrangements and contracts entered into after the*  
 10          *date of the enactment of this Act.*

11                *(2) SERVICES ORDERED OR PRESCRIBED.—The*  
 12          *amendments made by subsection (b) shall apply to*  
 13          *items and services furnished, ordered, or prescribed*  
 14          *after the date of the enactment of this Act.*

15                *(3) KICKBACKS.—The amendments made by sub-*  
 16          *section (c) shall apply to acts taken after the date of*  
 17          *the enactment of this Act.*

18                    **CHAPTER 2—IMPROVEMENTS IN**  
 19                    **PROTECTING PROGRAM INTEGRITY**

20          **SEC. 5211. DISCLOSURE OF INFORMATION, SURETY BONDS,**  
 21                    **AND ACCREDITATION.**

22                *(a) DISCLOSURE OF INFORMATION, SURETY BOND,*  
 23          *AND ACCREDITATION REQUIREMENT FOR SUPPLIERS OF*  
 24          *DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42*

1 *U.S.C. 1395m(a)) is amended by inserting after paragraph*  
2 *(15) the following:*

3           “(16) *DISCLOSURE OF INFORMATION, SURETY*  
4 *BOND, AND ACCREDITATION.—The Secretary shall not*  
5 *provide for the issuance (or renewal) of a provider*  
6 *number for a supplier of durable medical equipment,*  
7 *for purposes of payment under this part for durable*  
8 *medical equipment furnished by the supplier, unless*  
9 *the supplier provides the Secretary on a continuing*  
10 *basis—*

11           “(A) *with—*

12                   “(i) *full and complete information as*  
13 *to the identity of each person with an own-*  
14 *ership or control interest (as defined in sec-*  
15 *tion 1124(a)(3)) in the supplier or in any*  
16 *subcontractor (as defined by the Secretary*  
17 *in regulations) in which the supplier di-*  
18 *rectly or indirectly has a 5 percent or more*  
19 *ownership interest; and*

20                   “(ii) *to the extent determined to be fea-*  
21 *sible under regulations of the Secretary, the*  
22 *name of any disclosing entity (as defined in*  
23 *section 1124(a)(2)) with respect to which a*  
24 *person with such an ownership or control*  
25 *interest in the supplier is a person with*

1           *such an ownership or control interest in the*  
2           *disclosing entity;*

3           *“(B) with a surety bond in a form specified*  
4           *by the Secretary and in an amount that is not*  
5           *less than \$50,000; and*

6           *“(C) at the discretion of the Secretary, with*  
7           *evidence of compliance with the applicable condi-*  
8           *tions or requirements of this title through an ac-*  
9           *creditation survey conducted by a national ac-*  
10          *creditation body under section 1865(b).*

11 *The Secretary may waive the requirement of a bond under*  
12 *subparagraph (B) in the case of a supplier that provides*  
13 *a comparable surety bond under State law.”.*

14          ***(b) SURETY BOND REQUIREMENT FOR HOME HEALTH***  
15 ***AGENCIES.—***

16           ***(1) IN GENERAL.—Section 1861(o) (42 U.S.C.***  
17           ***1395x(o)) is amended—***

18           ***(A) in paragraph (7), by inserting “and in-***  
19           ***cluding providing the Secretary on a continuing***  
20           ***basis with a surety bond in a form specified by***  
21           ***the Secretary and in an amount that is not less***  
22           ***than \$50,000” after “financial security of the***  
23           ***program”; and***

24           ***(B) by adding at the end the following:***  
25           ***“The Secretary may waive the requirement of a***

1           *surety bond under paragraph (7) in the case of*  
2           *an agency or organization that provides a com-*  
3           *parable surety bond under State law.”.*

4           (2)     *CONFORMING     AMENDMENTS.—Section*  
5           *1861(v)(1)(H) (42 U.S.C. 1395x(v)(1)(H)) is amend-*  
6           *ed—*

7                     *(A) in clause (i), by striking “the financial*  
8                     *security requirement” and inserting “the finan-*  
9                     *cial security and surety bond requirements”; and*

10                    *(B) in clause (ii), by striking “the financial*  
11                    *security requirement described in subsection*  
12                    *(o)(7) applies” and inserting “the financial secu-*  
13                    *rity and surety bond requirements described in*  
14                    *subsection (o)(7) apply”.*

15           (3)     *REFERENCE TO CURRENT DISCLOSURE RE-*  
16           *QUIREMENT.—For additional provisions requiring*  
17           *home health agencies to disclose information on own-*  
18           *ership and control interests, see section 1124 of the*  
19           *Social Security Act (42 U.S.C. 1320a–3).*

20           (c)     *AUTHORIZING APPLICATION OF DISCLOSURE AND*  
21           *SURETY BOND REQUIREMENTS TO AMBULANCE SERVICES*  
22           *AND CERTAIN CLINICS.—Section 1834(a)(16) (42 U.S.C.*  
23           *1395m(a)(16)), as added by subsection (a), is amended by*  
24           *adding at the end the following flush sentence:*

1        *The Secretary, in the Secretary’s discretion, may im-*  
2        *pose the requirements of the previous sentence with re-*  
3        *spect to some or all classes of suppliers of ambulance*  
4        *services described in section 1861(s)(7) and clinics*  
5        *that furnish medical and other health services (other*  
6        *than physicians’ services) under this part.”.*

7        *(d) APPLICATION TO COMPREHENSIVE OUTPATIENT*  
8        *REHABILITATION FACILITIES (CORFs).—Section*  
9        *1861(cc)(2) (42 U.S.C. 1395x(cc)(2)) is amended—*

10            *(1) in subparagraph (I), by inserting before the*  
11            *period at the end the following: “and providing the*  
12            *Secretary on a continuing basis with a surety bond*  
13            *in a form specified by the Secretary and in an*  
14            *amount that is not less than \$50,000”; and*

15            *(2) by adding at the end the following flush sen-*  
16            *tence:*

17        *“The Secretary may waive the requirement of a bond under*  
18        *subparagraph (I) in the case of a facility that provides a*  
19        *comparable surety bond under State law.”.*

20        *(e) APPLICATION TO REHABILITATION AGENCIES.—*  
21        *Section 1861(p) (42 U.S.C. 1395x(p)) is amended—*

22            *(1) in paragraph (4)(A)(v), by inserting after*  
23            *“as the Secretary may find necessary,” the following:*  
24            *“and provides the Secretary, to the extent required by*  
25            *the Secretary, on a continuing basis with a surety*

1 *bond in a form specified by the Secretary and in an*  
2 *amount that is not less than \$50,000,” and*

3 *(2) by adding at the end the following: “The Sec-*  
4 *retary may waive the requirement of a bond under*  
5 *paragraph (4)(A)(v) in the case of a clinic or agency*  
6 *that provides a comparable surety bond under State*  
7 *law.”.*

8 *(f) EFFECTIVE DATES.—*

9 *(1) SUPPLIERS OF DURABLE MEDICAL EQUIP-*  
10 *MENT.—The amendment made by subsection (a) shall*  
11 *apply to suppliers of durable medical equipment with*  
12 *respect to such equipment furnished on or after Janu-*  
13 *ary 1, 1998.*

14 *(2) HOME HEALTH AGENCIES.—The amendments*  
15 *made by subsection (b) shall apply to home health*  
16 *agencies with respect to services furnished on or after*  
17 *January 1, 1998. The Secretary of Health and*  
18 *Human Services shall modify participation agree-*  
19 *ments under section 1866(a)(1) of the Social Security*  
20 *Act (42 U.S.C. 1395cc(a)(1)) with respect to home*  
21 *health agencies to provide for implementation of such*  
22 *amendments on a timely basis.*

23 *(3) OTHER AMENDMENTS.—The amendments*  
24 *made by subsections (c) through (e) shall take effect*  
25 *on the date of the enactment of this Act and may be*



1           “(3) including the employer identification num-  
2           ber (assigned pursuant to section 6109 of the Internal  
3           Revenue Code of 1986) and social security account  
4           number (assigned under section 205(c)(2)(B)) of the  
5           disclosing part B provider and any person, managing  
6           employee, or other entity identified or described under  
7           paragraph (1) or (2).”; and

8           (2) in subsection (c)(1), by inserting “(or, for  
9           purposes of subsection (a)(3), any entity receiving  
10          payment)” after “on an assignment-related basis”.

11          (c) VERIFICATION BY SOCIAL SECURITY ADMINISTRA-  
12          TION (SSA).—Section 1124A (42 U.S.C. 1320a–3a), as  
13          amended by subsection (b), is amended—

14                 (1) by redesignating subsection (c) as subsection  
15                 (d); and

16                 (2) by inserting after subsection (b) the follow-  
17                 ing:

18                 “(c) VERIFICATION.—

19                         “(1) TRANSMITTAL BY HHS.—The Secretary  
20                         shall transmit—

21                                 “(A) to the Commissioner of Social Security  
22                                 information concerning each social security ac-  
23                                 count number (assigned under section  
24                                 205(c)(2)(B)), and

1           “(B) to the Secretary of the Treasury infor-  
2           mation concerning each employer identification  
3           number (assigned pursuant to section 6109 of the  
4           Internal Revenue Code of 1986),  
5           supplied to the Secretary pursuant to subsection  
6           (a)(3) or section 1124(c) to the extent necessary for  
7           verification of such information in accordance with  
8           paragraph (2).

9           “(2) VERIFICATION.—The Commissioner of So-  
10          cial Security and the Secretary of the Treasury shall  
11          verify the accuracy of, or correct, the information  
12          supplied by the Secretary to such official pursuant to  
13          paragraph (1), and shall report such verifications or  
14          corrections to the Secretary.

15          “(3) FEES FOR VERIFICATION.—The Secretary  
16          shall reimburse the Commissioner and Secretary of  
17          the Treasury, at a rate negotiated between the Sec-  
18          retary and such official, for the costs incurred by such  
19          official in performing the verification and correction  
20          services described in this subsection.”.

21          (d) REPORT.—The Secretary of Health and Human  
22          Services shall submit to Congress a report on steps the Sec-  
23          retary has taken to assure the confidentiality of social secu-  
24          rity account numbers that will be provided to the Secretary  
25          under the amendments made by this section.

1       (e) *EFFECTIVE DATES.*—

2               (1) *DISCLOSURE REQUIREMENTS.*—*The amend-*  
 3       *ment made by subsection (a) shall apply to the appli-*  
 4       *cation of conditions of participation, and entering*  
 5       *into and renewal of contracts and agreements, occur-*  
 6       *ring more than 90 days after the date of submission*  
 7       *of the report under subsection (d).*

8               (2) *OTHER PROVIDERS.*—*The amendments made*  
 9       *by subsection (b) shall apply to payment for items*  
 10       *and services furnished more than 90 days after the*  
 11       *date of submission of such report.*

12   **SEC. 5213. APPLICATION OF CERTAIN PROVISIONS OF THE**  
 13                               **BANKRUPTCY CODE.**

14       (a) *RESTRICTED APPLICABILITY OF BANKRUPTCY*  
 15       *STAY, DISCHARGE, AND PREFERENTIAL TRANSFER PROVI-*  
 16       *SIONS TO MEDICARE AND MEDICAID DEBTS.*—*Part A of*  
 17       *title XI (42 U.S.C. 1301 et seq.) is amended by inserting*  
 18       *after section 1143 the following:*

19               “*APPLICATION OF CERTAIN PROVISIONS OF THE*  
 20                               *BANKRUPTCY CODE*

21               “*SEC. 1144. (a) MEDICARE AND MEDICAID-RELATED*  
 22       *ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.*—  
 23       *The commencement or continuation of any action against*  
 24       *a debtor under this title or title XVIII or XIX (other than*  
 25       *an action with respect to health care services for the debtor*  
 26       *under title XVIII), including any action or proceeding to*

1 *exclude or suspend the debtor from program participation,*  
2 *assess civil money penalties, recoup or set off overpayments,*  
3 *or deny or suspend payment of claims shall not be subject*  
4 *to the provisions of section 362(a) of title 11, United States*  
5 *Code.*

6       “(b) *CERTAIN MEDICARE- AND MEDICAID-RELATED*  
7 *DEBT NOT DISCHARGEABLE IN BANKRUPTCY.—A debt*  
8 *owed to the United States or to a State for an overpayment*  
9 *under title XVIII or XIX (other than an overpayment for*  
10 *health care services for the debtor under title XVIII) result-*  
11 *ing from the fraudulent actions of the debtor, or for a pen-*  
12 *alty, fine, or assessment under this title or title XVIII or*  
13 *XIX, shall not be dischargeable under any provision of title*  
14 *11, United States Code.*

15       “(c) *REPAYMENT OF CERTAIN DEBTS CONSIDERED*  
16 *FINAL.—Payments made to repay a debt to the United*  
17 *States or to a State with respect to items or services pro-*  
18 *vided, or claims for payment made, under title XVIII or*  
19 *XIX (including repayment of an overpayment (other than*  
20 *an overpayment for health care services for the debtor under*  
21 *title XVIII) resulting from the fraudulent actions of the*  
22 *debtor), or to pay a penalty, fine, or assessment under this*  
23 *title or title XVIII or XIX, shall be considered final and*  
24 *not preferential transfers under section 547 of title 11,*  
25 *United States Code.”.*

1           (b) *MEDICARE RULES APPLICABLE TO BANKRUPTCY*  
2 *PROCEEDINGS.—Title XVIII (42 U.S.C. 1395 et seq.) is*  
3 *amended by adding at the end the following:*

4           “*APPLICATION OF PROVISIONS OF THE BANKRUPTCY CODE*  
5           “*SEC. 1894. (a) USE OF MEDICARE STANDARDS AND*  
6 *PROCEDURES.—Notwithstanding any provision of title 11,*  
7 *United States Code, or any other provision of law, in the*  
8 *case of claims by a debtor in bankruptcy for payment under*  
9 *this title, the determination of whether the claim is allow-*  
10 *able and of the amount payable, shall be made in accord-*  
11 *ance with the provisions of this title and title XI and imple-*  
12 *menting regulations.*

13           “(b) *NOTICE TO CREDITOR OF BANKRUPTCY PETI-*  
14 *TIONER.—In the case of a debt owed to the United States*  
15 *with respect to items or services provided, or claims for pay-*  
16 *ment made, under this title (including a debt arising from*  
17 *an overpayment or a penalty, fine, or assessment under title*  
18 *XI or this title), the notices to the creditor of bankruptcy*  
19 *petitions, proceedings, and relief required under title 11,*  
20 *United States Code (including under section 342 of that*  
21 *title and section 2002(j) of the Federal Rules of Bankruptcy*  
22 *Procedure), shall be given to the Secretary. Provision of*  
23 *such notice to a fiscal agent of the Secretary shall not be*  
24 *considered to satisfy this requirement.*

25           “(c) *TURNOVER OF PROPERTY TO THE BANKRUPTCY*  
26 *ESTATE.—For purposes of section 542(b) of title 11, United*

1 *States Code, a claim for payment under this title shall not*  
2 *be considered to be a matured debt payable to the estate*  
3 *of a debtor until such claim has been allowed by the Sec-*  
4 *retary in accordance with procedures under this title.”.*

5 *(c) EFFECTIVE DATE.—The amendments made by this*  
6 *section shall apply to bankruptcy petitions filed after the*  
7 *date of the enactment of this Act.*

8 **SEC. 5214. REPLACEMENT OF REASONABLE CHARGE METH-**  
9 **ODOLOGY BY FEE SCHEDULES.**

10 *(a) IN GENERAL.—Section 1833(a)(1) (42 U.S.C.*  
11 *1395l(a)(1)) is amended in the matter preceding subpara-*  
12 *graph (A) by striking “the reasonable charges for the serv-*  
13 *ices” and inserting “the lesser of the actual charges for the*  
14 *services and the amounts determined by the applicable fee*  
15 *schedules developed by the Secretary for the particular serv-*  
16 *ices”.*

17 *(b) CONFORMING AMENDMENTS.—*

18 *(1) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is*  
19 *amended—*

20 *(A) in subparagraph (A), by striking “rea-*  
21 *sonable charges for” and inserting “payment*  
22 *bases otherwise applicable to”;*

23 *(B) in subparagraph (B), by striking “rea-*  
24 *sonable charges” and inserting “fee schedule*  
25 *amounts”; and*

1           (C) by inserting after subparagraph (F) the  
2 following: “(G) with respect to services described  
3 in clause (i) or (ii) of section 1861(s)(2)(K) (re-  
4 lating to physician assistants and nurse practi-  
5 tioners), the amounts paid shall be 80 percent of  
6 the lesser of the actual charge for the services and  
7 the applicable amount determined under sub-  
8 clause (I) or (II) of section 1842(b)(12)(A)(ii),”.

9           (2) Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is  
10 amended—

11           (A) in subparagraph (B), in the matter pre-  
12 ceding clause (i), by striking “(C), (D),” and in-  
13 serting “(D)”;

14           (B) by striking subparagraph (C).

15           (3) Section 1833(l) (42 U.S.C. 1395l(l)) is  
16 amended—

17           (A) in paragraph (3)—

18           (i) by striking subparagraph (B); and

19           (ii) by striking “(3)(A)” and inserting  
20 “(3)”;

21           (B) by striking paragraph (6).

22           (4) Section 1834(a)(10)(B) (42 U.S.C.  
23 1395m(a)(10)(B)) is amended by striking “para-  
24 graphs (8) and (9)” and all that follows through “sec-  
25 tion 1848(i)(3).” and inserting “section 1842(b)(8) to

1 covered items and suppliers of such items and pay-  
2 ments under this subsection as such provisions would  
3 otherwise apply to physicians' services and physi-  
4 cians.”.

5 (5) Section 1834(g)(1)(A)(ii) (42 U.S.C.  
6 1395m(g)(1)(A)(ii)) is amended in the heading by  
7 striking “REASONABLE CHARGES FOR PROFES-  
8 SIONAL” and inserting “PROFESSIONAL”.

9 (6) Section 1842(a) (42 U.S.C. 1395u(a)) is  
10 amended—

11 (A) in the matter preceding paragraph (1),  
12 by striking “reasonable charge” and inserting  
13 “fee schedule”; and

14 (B) in paragraph (1)(A), by striking “rea-  
15 sonable charge” and inserting “other”.

16 (7) Section 1842(b)(3) (42 U.S.C. 1395u(b)(3))  
17 is amended—

18 (A) in subparagraph (B)—

19 (i) in the matter preceding clause (i),  
20 by striking “where payment” and all that  
21 follows through “made—” and inserting  
22 “where payment under this part for a serv-  
23 ice is on a basis other than a cost basis,  
24 such payment will (except as otherwise pro-  
25 vided in section 1870(f)) be made—”; and

1                   (ii) by striking clause (ii)(I) and in-  
2                   serting the following: “(I) the amount deter-  
3                   mined by the applicable payment basis  
4                   under this part is the full charge for the  
5                   service,”; and

6                   (B) by striking the second, third, fourth,  
7                   fifth, sixth, eighth, and ninth sentences.

8                   (8) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4))  
9                   is amended to read as follows:

10                  “(4) In the case of an enteral or parenteral pump that  
11 is furnished on a rental basis during a period of medical  
12 need—

13                   “(A) monthly rental payments shall not be made  
14 under this part for more than 15 months during that  
15 period, and

16                   “(B) after monthly rental payments have been  
17 made for 15 months during that period, payment  
18 under this part shall be made for maintenance and  
19 servicing of the pump in amounts that the Secretary  
20 determines to be reasonable and necessary to ensure  
21 the proper operation of the pump.”.

22                   (9) Section 6112(b) (42 U.S.C. 1395m note; Pub-  
23 lic Law 101–239) of OBRA—1989 is repealed.

24                   (10) Section 1842(b)(7) (42 U.S.C. 1395u(b)(7))  
25 is amended—

1           (A) in subparagraph (D)(i), in the matter  
2 preceding subclause (I), by striking “, to the ex-  
3 tent that such payment is otherwise allowed  
4 under this paragraph,”;

5           (B) in subparagraph (D)(ii), by striking  
6 “subparagraph” and inserting “paragraph”;

7           (C) by striking “(7)(A) In the case of” and  
8 all that follows through subparagraph (C);

9           (D) by striking “(D)(i)” and inserting  
10 “(7)(A)”;

11           (E) by redesignating clauses (ii) and (iii)  
12 as subparagraphs (B) and (C), respectively; and

13           (F) by redesignating subclauses (I), (II),  
14 and (III) of subparagraph (A) (as redesignated  
15 by subparagraph (D) of this paragraph) as  
16 clauses (i), (ii), and (iii), respectively.

17           (11) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9))  
18 is repealed.

19           (12) Section 1842(b)(10) (42 U.S.C.  
20 1395u(b)(10)) is repealed.

21           (13) Section 1842(b)(11) (42 U.S.C.  
22 1395u(b)(11)) is amended—

23           (A) by striking subparagraphs (B) through  
24 (D);

1           (B) by striking “(11)(A)” and inserting  
2           “(11)”; and

3           (C) by redesignating clauses (i) and (ii) as  
4           subparagraphs (A) and (B), respectively.

5           (14) Section 1842(b)(12)(A)(ii) (42 U.S.C.  
6           1395u(b)(12)(A)(ii)) is amended—

7           (A) in the matter preceding subclause (I),  
8           by striking “prevailing charges determined  
9           under paragraph (3)” and inserting “the  
10           amounts determined under section  
11           1833(a)(1)(G)”; and

12           (B) in subclause (II), by striking “prevail-  
13           ing charge rate” and all that follows up to the  
14           period and inserting “fee schedule amount speci-  
15           fied in section 1848 for such services performed  
16           by physicians”.

17           (15) Paragraphs (14) through (17) of section  
18           1842(b) (42 U.S.C. 1395u(b)) are repealed.

19           (16) Section 1842(b) (42 U.S.C. 1395u(b)) is  
20           amended—

21           (A) in paragraph (18)(A), by striking “rea-  
22           sonable charge or”; and

23           (B) by redesignating paragraph (18) as  
24           paragraph (14).

1           (17) *Section 1842(j)(1) (42 U.S.C. 1395u(j)) is*  
2           *amended to read as follows:*

3           “(j)(1) *See subsections (k), (l), (m), (n), and (p) as*  
4           *to the cases in which sanctions may be applied under para-*  
5           *graph (2).”.*

6           (18) *Section 1842(j)(4) (42 U.S.C. 1395u(j)(4))*  
7           *is amended by striking “under paragraph (1)”.*

8           (19) *Section 1842(n)(1)(A) (42 U.S.C.*  
9           *1395u(n)(1)(A)) is amended by striking “reasonable*  
10           *charge (or other applicable limit)” and inserting*  
11           *“other applicable limit”.*

12           (20) *Section 1842(q) (42 U.S.C. 1395u(q)) is*  
13           *amended—*

14                     *(A) by striking paragraph (1)(B); and*

15                     *(B) by striking “(q)(1)(A)” and inserting*  
16                     *“(q)(1)”.*

17           (21) *Section 1845(b)(1) (42 U.S.C. 1395w-*  
18           *1(b)(1)) is amended by striking “adjustments to the*  
19           *reasonable charge levels for physicians’ services recog-*  
20           *nized under section 1842(b) and”.*

21           (22) *Section 1848(i)(3) (42 U.S.C. 1395w-*  
22           *4(i)(3)) is repealed.*

23           (23) *Section 1866(a)(2)(A)(ii) (42 U.S.C.*  
24           *1395cc(a)(2)(A)(ii)) is amended by striking “reason-*  
25           *able charges” and all that follows through “provider)”*

1       and inserting “amount customarily charged for the  
2       items and services by the provider”.

3           (24) Section 1881(b)(3)(A) (42 U.S.C.  
4       1395rr(b)(3)(A)) is amended by striking “a reason-  
5       able charge” and all that follows through “section  
6       1848)” and inserting “the basis described in section  
7       1848”.

8           (25) Section 9340 of OBRA—1986 (42 U.S.C.  
9       1395u note; Public Law 99-509) is repealed.

10       (c) *EFFECTIVE DATES.*—The amendments made by  
11       this section to the extent such amendments substitute fee  
12       schedules for reasonable charges, shall apply to particular  
13       services as of the date specified by the Secretary of Health  
14       and Human Services.

15       (d) *INITIAL BUDGET NEUTRALITY.*—The Secretary, in  
16       developing a fee schedule for particular services (under the  
17       amendments made by this section), shall set amounts for  
18       the first year period to which the fee schedule applies at  
19       a level so that the total payments under title XVIII of the  
20       Social Security Act (42 U.S.C. 1395 et seq.) for those serv-  
21       ices for that year period shall be approximately equal to  
22       the estimated total payments if those amendments had not  
23       been made.

1 **SEC. 5215. APPLICATION OF INHERENT REASONABLENESS**  
2 **TO ALL PART B SERVICES OTHER THAN PHY-**  
3 **SICIANS' SERVICES.**

4 (a) *IN GENERAL.*—Section 1842(b)(8) (42 U.S.C.  
5 1395u(b)(8)) is amended to read as follows:

6 “(8) *The Secretary shall describe by regulation the fac-*  
7 *tors to be used in determining the cases (of particular items*  
8 *or services) in which the application of this part (other than*  
9 *to physicians' services paid under section 1848) results in*  
10 *the determination of an amount that, because of its being*  
11 *grossly excessive or grossly deficient, is not inherently rea-*  
12 *sonable, and provide in those cases for the factors to be con-*  
13 *sidered in establishing an amount that is realistic and equi-*  
14 *table.”.*

15 (b) *CONFORMING AMENDMENT.*—Section 1834(a)(10)  
16 (42 U.S.C. 1395m(a)(10)(B)) is amended—

17 (1) *by striking subparagraph (B); and*

18 (2) *by redesignating subparagraph (C) as sub-*  
19 *paragraph (B).*

20 (c) *EFFECTIVE DATE.*—*The amendments made by this*  
21 *section shall take effect on the date of the enactment of this*  
22 *Act.*

23 **SEC. 5216. REQUIREMENT TO FURNISH DIAGNOSTIC INFOR-**  
24 **MATION.**

25 (a) *INCLUSION OF NON-PHYSICIAN PRACTITIONERS IN*  
26 *REQUIREMENT TO PROVIDE DIAGNOSTIC CODES FOR PHY-*

1 *SICIAN SERVICES.—Paragraphs (1) and (2) of section*  
2 *1842(p) (42 U.S.C. 1395u(p)) are each amended by insert-*  
3 *ing “or practitioner specified in subsection (b)(18)(C)”*  
4 *after “by a physician”.*

5 *(b) REQUIREMENT TO PROVIDE DIAGNOSTIC INFOR-*  
6 *MATION WHEN ORDERING CERTAIN ITEMS OR SERVICES*  
7 *FURNISHED BY ANOTHER ENTITY.—Section 1842(p) (42*  
8 *U.S.C. 1395u(p)), is amended by adding at the end the fol-*  
9 *lowing:*

10 *“(4) In the case of an item or service defined in para-*  
11 *graph (3), (6), (8), or (9) of subsection 1861(s) ordered by*  
12 *a physician or a practitioner specified in subsection*  
13 *(b)(18)(C), but furnished by another entity, if the Secretary*  
14 *(or fiscal agent of the Secretary) requires the entity furnish-*  
15 *ing the item or service to provide diagnostic or other medi-*  
16 *cal information for payment to be made to the entity, the*  
17 *physician or practitioner shall provide that information to*  
18 *the entity at the time that the item or service is ordered*  
19 *by the physician or practitioner.”.*

20 *(c) EFFECTIVE DATE.—The amendments made by this*  
21 *section shall apply to items and services furnished on or*  
22 *after January 1, 1998.*

1 **SEC. 5217. REPORT BY GAO ON OPERATION OF FRAUD AND**  
2 **ABUSE CONTROL PROGRAM.**

3 *Section 1817(k)(6) (42 U.S.C. 1395i(k)(6)) is amended*  
4 *by inserting “June 1, 1998, and” after “Not later than”.*

5 **SEC. 5218. COMPETITIVE BIDDING.**

6 *(a) GENERAL RULE.—Part B of title XVIII (42 U.S.C.*  
7 *1395j et seq.) is amended by inserting after section 1846*  
8 *the following:*

9 **“SEC. 1847. COMPETITIVE ACQUISITION OF ITEMS AND**  
10 **SERVICES.**

11 *“(a) ESTABLISHMENT OF BIDDING AREAS.—*

12 *“(1) IN GENERAL.—The Secretary shall establish*  
13 *competitive acquisition areas for contract award pur-*  
14 *poses for the furnishing under this part after 1997 of*  
15 *the items and services described in subsection (c). The*  
16 *Secretary may establish different competitive acquisi-*  
17 *tion areas under this subsection for different classes of*  
18 *items and services.*

19 *“(2) CRITERIA FOR ESTABLISHMENT.—The com-*  
20 *petitive acquisition areas established under para-*  
21 *graph (1) shall be chosen based on the availability*  
22 *and accessibility of entities able to furnish items and*  
23 *services, and the probable savings to be realized by the*  
24 *use of competitive bidding in the furnishing of items*  
25 *and services in the area.*

26 *“(b) AWARDING OF CONTRACTS IN AREAS.—*

1           “(1) *IN GENERAL.*—*The Secretary shall conduct*  
2           *a competition among individuals and entities supply-*  
3           *ing items and services described in subsection (c) for*  
4           *each competitive acquisition area established under*  
5           *subsection (a) for each class of items and services.*

6           “(2) *CONDITIONS FOR AWARDING CONTRACT.*—  
7           *The Secretary may not award a contract to any en-*  
8           *tity under the competition conducted pursuant to*  
9           *paragraph (1) to furnish an item or service unless the*  
10           *Secretary finds that the entity meets quality stand-*  
11           *ards specified by the Secretary, and subject to para-*  
12           *graph (3), that the total amounts to be paid under the*  
13           *contract are expected to be less than the total amounts*  
14           *that would otherwise be paid.*

15           “(3) *LIMIT ON AMOUNT OF PAYMENT.*—*The Sec-*  
16           *retary may not under a contract awarded under this*  
17           *section provide for payment for an item or service in*  
18           *an amount in excess of the applicable fee schedule*  
19           *under this part for similar or related items or serv-*  
20           *ices. The preceding sentence shall not apply if the*  
21           *Secretary determines that an amount in excess of*  
22           *such amount is warranted by reason of technological*  
23           *innovation, quality improvement, or similar reasons,*  
24           *except that the total amount paid under the contract*  
25           *shall not exceed the limit under paragraph (2).*

1           “(4) *CONTENTS OF CONTRACT.*—A contract en-  
2           tered into with an entity under the competition con-  
3           ducted pursuant to paragraph (1) is subject to terms  
4           and conditions that the Secretary may specify.

5           “(5) *LIMIT ON NUMBER OF CONTRACTORS.*—The  
6           Secretary may limit the number of contractors in a  
7           competitive acquisition area to the number needed to  
8           meet projected demand for items and services covered  
9           under the contracts.

10          “(c) *SERVICES DESCRIBED.*—The items and services to  
11          which this section applies are all items and services covered  
12          under this part (except for physician services as defined by  
13          1861(r)) that the Secretary may specify.”

14          (b) *ITEMS AND SERVICES TO BE FURNISHED ONLY*  
15          *THROUGH COMPETITIVE ACQUISITION.*—Section 1862(a)  
16          (42 U.S.C. 1395y(a)) is amended—

17                 (1) by striking “or” at the end of paragraph  
18                 (14),

19                 (2) by striking the period at the end of para-  
20                 graph (15) and inserting “; or”, and

21                 (3) by inserting after paragraph (15) the follow-  
22                 ing:

23                         “(16) where the expenses are for an item or serv-  
24                         ice furnished in a competitive acquisition area (as es-  
25                         tablished by the Secretary under section 1847(a)) by



1           “(A) a statement which indicates that because er-  
2           rors do occur and because medicare fraud, waste and  
3           abuse is a significant problem, beneficiaries should  
4           carefully check the statement for accuracy and report  
5           any errors or questionable charges by calling the toll-  
6           free phone number described in subparagraph (C);

7           “(B) a statement of the beneficiary’s right to re-  
8           quest an itemized bill (as provided in section  
9           1128A(n)); and

10           “(C) a toll-free telephone number for reporting  
11           errors, questionable charges or other acts that would  
12           constitute medicare fraud, waste, or abuse, which may  
13           be the same number as described in subsection (b).”.

14           (b) *REQUEST FOR ITEMIZED BILL FOR MEDICARE*  
15 *ITEMS AND SERVICES.—*

16           (1) *IN GENERAL.—*Section 1128A of the Social  
17           Security Act (42 U.S.C. 1320a–7a) is amended by  
18           adding at the end the following new subsection:

19           “(m) *WRITTEN REQUEST FOR ITEMIZED BILL.—*

20           “(1) *IN GENERAL.—*A beneficiary may submit a  
21           written request for an itemized bill for medical or  
22           other items or services provided to such beneficiary by  
23           any person (including an organization, agency, or  
24           other entity) that receives payment under title XVIII

1       *for providing such items or services to such bene-*  
2       *ficiary.*

3               “(2) *30-DAY PERIOD TO RECEIVE BILL.*—

4                       “(A) *IN GENERAL.*—*Not later than 30 days*  
5                       *after the date on which a request under para-*  
6                       *graph (1) has been received, a person described*  
7                       *in such paragraph shall furnish an itemized bill*  
8                       *describing each medical or other item or service*  
9                       *provided to the beneficiary requesting the item-*  
10                      *ized bill.*

11                     “(B) *PENALTY.*—*Whoever knowingly fails to*  
12                     *furnish an itemized bill in accordance with sub-*  
13                     *paragraph (A) shall be subject to a civil fine of*  
14                     *not more than \$100 for each such failure.*

15               “(3) *REVIEW OF ITEMIZED BILL.*—

16                     “(A) *IN GENERAL.*—*Not later than 90 days*  
17                     *after the receipt of an itemized bill furnished*  
18                     *under paragraph (1), a beneficiary may submit*  
19                     *a written request for a review of the itemized bill*  
20                     *to the appropriate fiscal intermediary or carrier*  
21                     *with a contract under section 1816 or 1842.*

22                     “(B) *SPECIFIC ALLEGATIONS.*—*A request*  
23                     *for a review of the itemized bill shall identify—*

1                   “(i) *specific medical or other items or*  
2                   *services that the beneficiary believes were*  
3                   *not provided as claimed, or*

4                   “(ii) *any other billing irregularity (in-*  
5                   *cluding duplicate billing).*

6                   “(4) *FINDINGS OF FISCAL INTERMEDIARY OR*  
7                   *CARRIER.—Each fiscal intermediary or carrier with*  
8                   *a contract under section 1816 or 1842 shall, with re-*  
9                   *spect to each written request submitted to the fiscal*  
10                  *intermediary or carrier under paragraph (3), deter-*  
11                  *mine whether the itemized bill identifies specific med-*  
12                  *ical or other items or services that were not provided*  
13                  *as claimed or any other billing irregularity (includ-*  
14                  *ing duplicate billing) that has resulted in unnecessary*  
15                  *payments under the title XVIII.*

16                  “(5) *RECOVERY OF AMOUNTS.—The Secretary*  
17                  *shall require fiscal intermediaries and carriers to take*  
18                  *all appropriate measures to recover amounts unneces-*  
19                  *sarily paid under title XVIII with respect to a bill*  
20                  *described in paragraph (4).”.*

21                  “(c) *EFFECTIVE DATE.—The amendments made by this*  
22                  *section shall apply with respect to medical or other items*  
23                  *or services provided on or after January 1, 1998.*

1 **SEC. 5220. PROHIBITING UNNECESSARY AND WASTEFUL**  
2 **MEDICARE PAYMENTS FOR CERTAIN ITEMS.**

3 *Section 1861(v) of the Social Security Act is amended*  
4 *by adding at the end the following new paragraph:*

5 “(8) *ITEMS UNRELATED TO PATIENT CARE.—*

6 *Reasonable costs do not include costs for the follow-*  
7 *ing—*

8 *“(i) entertainment;*

9 *“(ii) gifts or donations;*

10 *“(iii) costs for fines and penalties resulting*  
11 *from violations of Federal, State, or local laws;*  
12 *and*

13 *“(iv) education expenses for spouses or other*  
14 *dependents of providers of services, their employ-*  
15 *ees or contractors.”.*

16 **SEC. 5221. REDUCING EXCESSIVE BILLINGS AND UTILIZA-**  
17 **TION FOR CERTAIN ITEMS.**

18 *Section 1834(a)(15) of the Social Security Act (42*  
19 *U.S.C. 1395m(a)(15)) is amended by striking “Secretary*  
20 *may” both places it appears and inserting “Secretary*  
21 *shall”.*

22 **SEC. 5222. IMPROVING INFORMATION TO MEDICARE BENE-**  
23 **FICIARIES.**

24 *(a) CLARIFICATION OF REQUIREMENT TO PROVIDE*  
25 *EXPLANATION OF MEDICARE BENEFITS.—Section 1804 of*

1 *the Social Security Act (42 U.S.C. 1395b–2) is amended*  
2 *by adding at the end the following new subsection:*

3       “(c)(1) *The Secretary shall provide a statement which*  
4 *explains the benefits provided under this title with respect*  
5 *to each item or service for which payment may be made*  
6 *under this title which is furnished to an individual, without*  
7 *regard to whether or not a deductible or coinsurance may*  
8 *be imposed against the individual with respect to such item*  
9 *or service.*

10       “(2) *Each explanation of benefits provided under*  
11 *paragraph (1) shall include—*

12               “(A) *a statement which indicates that because er-*  
13 *rors do occur and because medicare fraud, waste and*  
14 *abuse is a significant problem, beneficiaries should*  
15 *carefully check the statement for accuracy and report*  
16 *any errors or questionable charges by calling the toll-*  
17 *free phone number described in subparagraph (C);*

18               “(B) *a statement of the beneficiary’s right to re-*  
19 *quest an itemized bill (as provided in section*  
20 *1128A(n)); and*

21               “(C) *a toll-free telephone number for reporting*  
22 *errors, questionable charges or other acts that would*  
23 *constitute medicare fraud, waste, or abuse, which may*  
24 *be the same number as described in subsection (b).”.*

1       **(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE**  
2 **ITEMS AND SERVICES.—**

3           **(1) IN GENERAL.—***Section 1128A of the Social*  
4 *Security Act (42 U.S.C. 1320a-7a) is amended by*  
5 *adding at the end the following new subsection:*

6       **“(m) WRITTEN REQUEST FOR ITEMIZED BILL.—**

7           **“(1) IN GENERAL.—***A beneficiary may submit a*  
8 *written request for an itemized bill for medical or*  
9 *other items or services provided to such beneficiary by*  
10 *any person (including an organization, agency, or*  
11 *other entity) that receives payment under title XVIII*  
12 *for providing such items or services to such bene-*  
13 *ficiary.*

14       **“(2) 30-DAY PERIOD TO RECEIVE BILL.—**

15           **“(A) IN GENERAL.—***Not later than 30 days*  
16 *after the date on which a request under para-*  
17 *graph (1) has been received, a person described*  
18 *in such paragraph shall furnish an itemized bill*  
19 *describing each medical or other item or service*  
20 *provided to the beneficiary requesting the item-*  
21 *ized bill.*

22           **“(B) PENALTY.—***Whoever knowingly fails to*  
23 *furnish an itemized bill in accordance with sub-*  
24 *paragraph (A) shall be subject to a civil fine of*  
25 *not more than \$100 for each such failure.*

1           “(3) *REVIEW OF ITEMIZED BILL.*—

2                   “(A) *IN GENERAL.*—Not later than 90 days  
3           after the receipt of an itemized bill furnished  
4           under paragraph (1), a beneficiary may submit  
5           a written request for a review of the itemized bill  
6           to the appropriate fiscal intermediary or carrier  
7           with a contract under section 1816 or 1842.

8                   “(B) *SPECIFIC ALLEGATIONS.*—A request  
9           for a review of the itemized bill shall identify—

10                   “(i) *specific medical or other items or*  
11           *services that the beneficiary believes were*  
12           *not provided as claimed, or*

13                   “(ii) *any other billing irregularity (in-*  
14           *cluding duplicate billing).*

15                   “(4) *FINDINGS OF FISCAL INTERMEDIARY OR*  
16           *CARRIER.*—Each fiscal intermediary or carrier with  
17           a contract under section 1816 or 1842 shall, with re-  
18           spect to each written request submitted to the fiscal  
19           intermediary or carrier under paragraph (3), deter-  
20           mine whether the itemized bill identifies specific med-  
21           ical or other items or services that were not provided  
22           as claimed or any other billing irregularity (includ-  
23           ing duplicate billing) that has resulted in unnecessary  
24           payments under the title XVIII.

1           “(5) *RECOVERY OF AMOUNTS.*—*The Secretary*  
2           *shall require fiscal intermediaries and carriers to take*  
3           *all appropriate measures to recover amounts unneces-*  
4           *sarily paid under title XVIII with respect to a bill*  
5           *described in paragraph (4).”.*

6           *(c) EFFECTIVE DATE.*—*The amendments made by this*  
7           *section shall apply with respect to medical or other items*  
8           *or services provided on or after January 1, 1998.*

9   **SEC. 5223. PROHIBITING UNNECESSARY AND WASTEFUL**  
10                                   **MEDICARE PAYMENTS FOR CERTAIN ITEMS.**

11           *Notwithstanding any other provision of law, including*  
12           *any regulation or payment policy, the following categories*  
13           *of charges shall not be reimbursable under title XVIII of*  
14           *the Social Security Act:*

15                   (1) *Entertainment costs, including the costs of*  
16                   *tickets to sporting and other entertainment events.*

17                   (2) *Gifts or donations.*

18                   (3) *Personal use of motor vehicles.*

19                   (4) *Costs for fines and penalties resulting from*  
20                   *violations of Federal, State, or local laws.*

21                   (5) *Tuition or other education fees for spouses or*  
22                   *dependents of providers of services, their employees, or*  
23                   *contractors.*

1 **SEC. 5224. REDUCING EXCESSIVE BILLINGS AND UTILIZA-**  
2 **TION FOR CERTAIN ITEMS.**

3 *Section 1834(a)(15) of the Social Security Act (42*  
4 *U.S.C. 1395m(a)(15)) is amended by striking “Secretary*  
5 *may” both places it appears and inserting “Secretary*  
6 *shall”.*

7 **SEC. 5225. IMPROVED CARRIER AUTHORITY TO REDUCE EX-**  
8 **CESSIVE MEDICARE PAYMENTS.**

9 *Section 1834(i) of the Social Security Act (42 U.S.C.*  
10 *1395m(i)) is amended by adding at the end the following*  
11 *new paragraph:*

12 *“(3) GROSSLEY EXCESSIVE PAYMENT*  
13 *AMOUNTS.—Notwithstanding paragraph (1), the Sec-*  
14 *retary may apply the provisions of section 1842(b)(8)*  
15 *to payments under this subsection.”.*

16 **SEC. 5226. ITEMIZATION OF SURGICAL DRESSING BILLS**  
17 **SUBMITTED BY HOME HEALTH AGENCIES.**

18 *Section 1834(i)(2) (42 U.S.C. 1395m(i)(2)) is amend-*  
19 *ed to read as follows:*

20 *“(2) EXCEPTION.—Paragraph (1) shall not*  
21 *apply to surgical dressings that are furnished as an*  
22 *incident to a physician’s professional service.”.*

1           **CHAPTER 3—CLARIFICATIONS AND**  
2                           **TECHNICAL CHANGES**

3   **SEC. 5231. OTHER FRAUD AND ABUSE RELATED PROVI-**  
4                           **SIONS.**

5           (a)   *REFERENCE CORRECTION.*—(1)   Section  
6   1128D(b)(2)(D) (42 U.S.C. 1320a–7d(b)(2)(D)), as added  
7   by section 205 of the Health Insurance Portability and Ac-  
8   countability Act of 1996, is amended by striking  
9   “1128B(b)” and inserting “1128A(b)”.

10          (2)   Section 1128E(g)(3)(C) (42 U.S.C. 1320a–  
11   7e(g)(3)(C)) is amended by striking “Veterans’ Administra-  
12   tion” and inserting “Department of Veterans Affairs”.

13          (b)   *LANGUAGE IN DEFINITION OF CONVICTION.*—Sec-  
14   tion 1128E(g)(5) (42 U.S.C. 1320a–7e(g)(5)), as inserted  
15   by section 221(a) of the Health Insurance Portability and  
16   Accountability Act of 1996, is amended by striking “para-  
17   graph (4)” and inserting “paragraphs (1) through (4)”.

18          (c)   *IMPLEMENTATION OF EXCLUSIONS.*—Section 1128  
19   (42 U.S.C. 1320a–7) is amended—

20               (1)   in subsection (a), by striking “any program  
21               under title XVIII and shall direct that the following  
22               individuals and entities be excluded from participa-  
23               tion in any State health care program (as defined in  
24               subsection (h))” and inserting “any Federal health  
25               care program (as defined in section 1128B(f))”; and

1           (2) *in subsection (b), by striking “any program*  
2 *under title XVIII and may direct that the following*  
3 *individuals and entities be excluded from participa-*  
4 *tion in any State health care program” and inserting*  
5 *“any Federal health care program (as defined in sec-*  
6 *tion 1128B(f))”.*

7           (d) *SANCTIONS FOR FAILURE TO REPORT.—Section*  
8 *1128E(b) (42 U.S.C. 1320a–7e(b)), as inserted by section*  
9 *221(a) of the Health Insurance Portability and Account-*  
10 *ability Act of 1996, is amended by adding at the end the*  
11 *following:*

12           “(6) *SANCTIONS FOR FAILURE TO REPORT.—*

13           “(A) *HEALTH PLANS.—Any health plan*  
14 *that fails to report information on an adverse*  
15 *action required to be reported under this sub-*  
16 *section shall be subject to a civil money penalty*  
17 *of not more than \$25,000 for each such adverse*  
18 *action not reported. Such penalty shall be im-*  
19 *posed and collected in the same manner as civil*  
20 *money penalties under subsection (a) of section*  
21 *1128A are imposed and collected under that sec-*  
22 *tion.*

23           “(B) *GOVERNMENTAL AGENCIES.—The Sec-*  
24 *retary shall provide for a publication of a public*  
25 *report that identifies those Government agencies*

1           *that have failed to report information on adverse*  
2           *actions as required to be reported under this sub-*  
3           *section.”.*

4           *(e) CLARIFICATION OF TREATMENT OF CERTAIN WAIV-*  
5           *ERS AND PAYMENTS OF PREMIUMS.—*

6           (1) *Section 1128A(i)(6) (42 U.S.C. 1320a-*  
7           *7a(i)(6)) is amended—*

8                   *(A) in subparagraph (A)(iii)—*

9                           *(i) in subclause (I), by adding “or” at*  
10                           *the end;*

11                           *(ii) in subclause (II), by striking “or”*  
12                           *at the end; and*

13                           *(iii) by striking subclause (III);*

14                   *(B) by redesignating subparagraphs (B)*  
15                   *and (C) as subparagraphs (C) and (D); and*

16                   *(C) by inserting after subparagraph (A) the*  
17                   *following:*

18                           *“(B) any permissible waiver as specified in*  
19                           *section 1128B(b)(3) or in regulations issued by*  
20                           *the Secretary;”.*

21           (2) *Section 1128A(i)(6) (42 U.S.C. 1320a-*  
22           *7a(i)(6)), is amended—*

23                   *(A) in subparagraph (C), as redesignated*  
24                   *by paragraph (1), by striking “or” at the end;*

1           (B) in subparagraph (D), as so redesign-  
2           nated, by striking the period at the end and in-  
3           serting “; or”; and

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

5           “(D) the waiver of deductible and coinsur-  
6           ance amounts pursuant to medicare supple-  
7           mental policies under section 1882(t).”.

8           (f) *EFFECTIVE DATES.*—

9           (1) *IN GENERAL.*—*Except as provided in this*  
10          *subsection, the amendments made by this section shall*  
11          *be effective as if included in the enactment of the*  
12          *Health Insurance Portability and Accountability Act*  
13          *of 1996.*

14          (2) *FEDERAL HEALTH PROGRAM.*—*The amend-*  
15          *ments made by subsection (c) shall take effect on the*  
16          *date of the enactment of this Act.*

17          (3) *SANCTION FOR FAILURE TO REPORT.*—*The*  
18          *amendment made by subsection (d) shall apply to*  
19          *failures occurring on or after the date of the enact-*  
20          *ment of this Act.*

21          (4) *CLARIFICATION.*—*The amendments made by*  
22          *subsection (e)(2) shall take effect on the date of the en-*  
23          *actment of this Act.*

1     ***Subtitle E—Prospective Payment***  
 2                     ***Systems***

3     ***CHAPTER 1—PROVISIONS RELATING TO***  
 4                     ***PART A***

5     ***SEC. 5301. PROSPECTIVE PAYMENT FOR INPATIENT REHA-***  
 6                     ***BILITATION HOSPITAL SERVICES.***

7             *(a) IN GENERAL.—Section 1886 (42 U.S.C. 1395ww)*  
 8 *is amended by adding at the end the following new sub-*  
 9 *section:*

10             *“(j) PROSPECTIVE PAYMENT FOR INPATIENT REHA-*  
 11 *BILITATION SERVICES.—*

12                     *“(1) PAYMENT DURING TRANSITION PERIOD.—*

13                             *“(A) IN GENERAL.—Notwithstanding sec-*  
 14 *tion 1814(b), but subject to the provisions of sec-*  
 15 *tion 1813, the amount of the payment with re-*  
 16 *spect to the operating and capital costs of inpa-*  
 17 *tient hospital services of a rehabilitation hospital*  
 18 *or a rehabilitation unit (in this subsection re-*  
 19 *ferred to as a ‘rehabilitation facility’), in a cost*  
 20 *reporting period beginning on or after October 1,*  
 21 *2000, and before October 1, 2003, is equal to the*  
 22 *sum of—*

23                                     *“(i) the TEFRA percentage (as defined*  
 24 *in subparagraph (C)) of the amount that*  
 25 *would have been paid under part A of this*

1           *title with respect to such costs if this sub-*  
2           *section did not apply, and*

3           “(ii) *the prospective payment percent-*  
4           *age (as defined in subparagraph (C)) of the*  
5           *product of (I) the per unit payment rate es-*  
6           *tablished under this subsection for the fiscal*  
7           *year in which the payment unit of service*  
8           *occurs, and (II) the number of such pay-*  
9           *ment units occurring in the cost reporting*  
10          *period.*

11          “(B) *FULLY IMPLEMENTED SYSTEM.—Not-*  
12          *withstanding section 1814(b), but subject to the*  
13          *provisions of section 1813, the amount of the*  
14          *payment with respect to the operating and cap-*  
15          *ital costs of inpatient hospital services of a reha-*  
16          *ilitation facility for a payment unit in a cost*  
17          *reporting period beginning on or after October 1,*  
18          *2003, is equal to the per unit payment rate es-*  
19          *tablished under this subsection for the fiscal year*  
20          *in which the payment unit of service occurs.*

21          “(C) *TEFRA AND PROSPECTIVE PAYMENT*  
22          *PERCENTAGES SPECIFIED.—For purposes of sub-*  
23          *paragraph (A), for a cost reporting period begin-*  
24          *ning—*

1           “(i) on or after October 1, 2000, and  
2           before October 1, 2001, the ‘TEFRA percent-  
3           age’ is 75 percent and the ‘prospective pay-  
4           ment percentage’ is 25 percent;

5           “(ii) on or after October 1, 2001, and  
6           before October 1, 2002, the ‘TEFRA percent-  
7           age’ is 50 percent and the ‘prospective pay-  
8           ment percentage’ is 50 percent; and

9           “(iii) on or after October 1, 2002, and  
10          before October 1, 2003, the ‘TEFRA percent-  
11          age’ is 25 percent and the ‘prospective pay-  
12          ment percentage’ is 75 percent.

13          “(D) *PAYMENT UNIT*.—For purposes of this  
14          subsection, the term ‘payment unit’ means a dis-  
15          charge, day of inpatient hospital services, or  
16          other unit of payment defined by the Secretary.

17          “(2) *PATIENT CASE MIX GROUPS*.—

18                 “(A) *ESTABLISHMENT*.—The Secretary shall  
19          establish—

20                         “(i) classes of patients of rehabilitation  
21                         facilities (each in this subsection referred to  
22                         as a ‘case mix group’), based on such factors  
23                         as the Secretary deems appropriate, which  
24                         may include impairment, age, related prior

1           *hospitalization, comorbidities, and func-*  
2           *tional capability of the patient; and*

3           “(ii) *a method of classifying specific*  
4           *patients in rehabilitation facilities within*  
5           *these groups.*

6           “(B) *WEIGHTING FACTORS.—For each case*  
7           *mix group the Secretary shall assign an appro-*  
8           *priate weighting which reflects the relative facil-*  
9           *ity resources used with respect to patients classi-*  
10          *fied within that group compared to patients clas-*  
11          *sified within other groups.*

12          “(C) *ADJUSTMENTS FOR CASE MIX.—*

13          “(i) *IN GENERAL.—The Secretary shall*  
14          *from time to time adjust the classifications*  
15          *and weighting factors established under this*  
16          *paragraph as appropriate to reflect changes*  
17          *in treatment patterns, technology, case mix,*  
18          *number of payment units for which pay-*  
19          *ment is made under this title, and other*  
20          *factors which may affect the relative use of*  
21          *resources. Such adjustments shall be made*  
22          *in a manner so that changes in aggregate*  
23          *payments under the classification system*  
24          *are a result of real changes and are not a*

1           *result of changes in coding that are unre-*  
2           *lated to real changes in case mix.*

3           “(ii) *ADJUSTMENT.*—*Insofar as the*  
4           *Secretary determines that such adjustments*  
5           *for a previous fiscal year (or estimates that*  
6           *such adjustments for a future fiscal year)*  
7           *did (or are likely to) result in a change in*  
8           *aggregate payments under the classification*  
9           *system during the fiscal year that are a re-*  
10          *sult of changes in the coding or classifica-*  
11          *tion of patients that do not reflect real*  
12          *changes in case mix, the Secretary shall ad-*  
13          *just the per payment unit payment rate for*  
14          *subsequent years so as to discount the effect*  
15          *of such coding or classification changes.*

16          “(D) *DATA COLLECTION.*—*The Secretary is*  
17          *authorized to require rehabilitation facilities that*  
18          *provide inpatient hospital services to submit*  
19          *such data as the Secretary deems necessary to es-*  
20          *tablish and administer the prospective payment*  
21          *system under this subsection.*

22          “(3) *PAYMENT RATE.*—

23                 “(A) *IN GENERAL.*—*The Secretary shall de-*  
24                 *termine a prospective payment rate for each*  
25                 *payment unit for which such rehabilitation facil-*

1            *ity is entitled to receive payment under this title.*  
2            *Subject to subparagraph (B), such rate for pay-*  
3            *ment units occurring during a fiscal year shall*  
4            *be based on the average payment per payment*  
5            *unit under this title for inpatient operating and*  
6            *capital costs of rehabilitation facilities using the*  
7            *most recent data available (as estimated by the*  
8            *Secretary as of the date of establishment of the*  
9            *system) adjusted—*

10            *“(i) by updating such per-payment-*  
11            *unit amount to the fiscal year involved by*  
12            *the weighted average of the applicable per-*  
13            *centage increases provided under subsection*  
14            *(b)(3)(B)(ii) (for cost reporting periods be-*  
15            *ginning during the fiscal year) covering the*  
16            *period from the midpoint of the period for*  
17            *such data through the midpoint of fiscal*  
18            *year 2000 and by an increase factor (de-*  
19            *scribed in subparagraph (C)) specified by*  
20            *the Secretary for subsequent fiscal years up*  
21            *to the fiscal year involved;*

22            *“(ii) by reducing such rates by a factor*  
23            *equal to the proportion of payments under*  
24            *this subsection (as estimated by the Sec-*  
25            *retary) based on prospective payment*

1           *amounts which are additional payments de-*  
2           *scribed in paragraph (4) (relating to outlier*  
3           *and related payments) or paragraph (7);*

4           *“(iii) for variations among rehabilita-*  
5           *tion facilities by area under paragraph (6);*

6           *“(iv) by the weighting factors estab-*  
7           *lished under paragraph (2)(B); and*

8           *“(v) by such other factors as the Sec-*  
9           *retary determines are necessary to properly*  
10          *reflect variations in necessary costs of treat-*  
11          *ment among rehabilitation facilities.*

12          *“(B) BUDGET NEUTRAL RATES.—The Sec-*  
13          *retary shall establish the prospective payment*  
14          *amounts under this subsection for payment units*  
15          *during fiscal years 2001 through 2004 at levels*  
16          *such that, in the Secretary’s estimation, the*  
17          *amount of total payments under this subsection*  
18          *for such fiscal years (including any payment ad-*  
19          *justments pursuant to paragraph (7)) shall be*  
20          *equal to 99 percent of the amount of payments*  
21          *that would have been made under this title dur-*  
22          *ing the fiscal years for operating and capital*  
23          *costs of rehabilitation facilities had this sub-*  
24          *section not been enacted. In establishing such*  
25          *payment amounts, the Secretary shall consider*

1           *the effects of the prospective payment system es-*  
2           *tablished under this subsection on the total num-*  
3           *ber of payment units from rehabilitation facili-*  
4           *ties and other factors described in subparagraph*  
5           *(A).*

6           “(C) *INCREASE FACTOR.*—*For purposes of*  
7           *this subsection for payment units in each fiscal*  
8           *year (beginning with fiscal year 2001), the Sec-*  
9           *retary shall establish an increase factor. Such*  
10           *factor shall be based on an appropriate percent-*  
11           *age increase in a market basket of goods and*  
12           *services comprising services for which payment*  
13           *is made under this subsection, which may be the*  
14           *market basket percentage increase described in*  
15           *subsection (b)(3)(B)(iii).*

16           “(4) *OUTLIER AND SPECIAL PAYMENTS.*—

17           “(A) *OUTLIERS.*—

18           “(i) *IN GENERAL.*—*The Secretary may*  
19           *provide for an additional payment to a re-*  
20           *habilitation facility for patients in a case*  
21           *mix group, based upon the patient being*  
22           *classified as an outlier based on an unusual*  
23           *length of stay, costs, or other factors speci-*  
24           *fied by the Secretary.*

1           “(ii) *PAYMENT BASED ON MARGINAL*  
2           *COST OF CARE.*—*The amount of such addi-*  
3           *tional payment under clause (i) shall be de-*  
4           *termined by the Secretary and shall approx-*  
5           *imate the marginal cost of care beyond the*  
6           *cutoff point applicable under clause (i).*

7           “(iii) *TOTAL PAYMENTS.*—*The total*  
8           *amount of the additional payments made*  
9           *under this subparagraph for payment units*  
10          *in a fiscal year may not exceed 5 percent*  
11          *of the total payments projected or estimated*  
12          *to be made based on prospective payment*  
13          *rates for payment units in that year.*

14          “(B) *ADJUSTMENT.*—*The Secretary may*  
15          *provide for such adjustments to the payment*  
16          *amounts under this subsection as the Secretary*  
17          *deems appropriate to take into account the*  
18          *unique circumstances of rehabilitation facilities*  
19          *located in Alaska and Hawaii.*

20          “(5) *PUBLICATION.*—*The Secretary shall provide*  
21          *for publication in the Federal Register, on or before*  
22          *September 1 before each fiscal year (beginning with*  
23          *fiscal year 2001, of the classification and weighting*  
24          *factors for case mix groups under paragraph (2) for*  
25          *such fiscal year and a description of the methodology*

1 *and data used in computing the prospective payment*  
2 *rates under this subsection for that fiscal year.*

3 *“(6) AREA WAGE ADJUSTMENT.—The Secretary*  
4 *shall adjust the proportion (as estimated by the Sec-*  
5 *retary from time to time) of rehabilitation facilities’*  
6 *costs which are attributable to wages and wage-relat-*  
7 *ed costs, of the prospective payment rates computed*  
8 *under paragraph (3) for area differences in wage lev-*  
9 *els by a factor (established by the Secretary) reflecting*  
10 *the relative hospital wage level in the geographic area*  
11 *of the rehabilitation facility compared to the national*  
12 *average wage level for such facilities. Not later than*  
13 *October 1, 2001 (and at least every 36 months there-*  
14 *after), the Secretary shall update the factor under the*  
15 *preceding sentence on the basis of a survey conducted*  
16 *by the Secretary (and updated as appropriate) of the*  
17 *wages and wage-related costs incurred in furnishing*  
18 *rehabilitation services. Any adjustments or updates*  
19 *made under this paragraph for a fiscal year shall be*  
20 *made in a manner that assures that the aggregated*  
21 *payments under this subsection in the fiscal year are*  
22 *not greater or less than those that would have been*  
23 *made in the year without such adjustment.*

24 *“(7) ADDITIONAL ADJUSTMENTS.—The Secretary*  
25 *may provide by regulation for—*

1           “(A) an additional payment to take into ac-  
2           count indirect costs of medical education and the  
3           special circumstances of hospitals that serve a  
4           significantly disproportionate number of low-in-  
5           come patients in a manner similar to that pro-  
6           vided under subparagraphs (B) and (F), respec-  
7           tively, of subsection (d)(5); and

8           “(B) such other exceptions and adjustments  
9           to payment amounts under this subsection in a  
10          manner similar to that provided under sub-  
11          section (d)(5)(I) in relation to payments under  
12          subsection (d).

13          “(8) *LIMITATION ON REVIEW.*—There shall be no  
14          administrative or judicial review under section 1869,  
15          1878, or otherwise of the establishment of—

16               “(A) case mix groups, of the methodology  
17               for the classification of patients within such  
18               groups, and of the appropriate weighting factors  
19               thereof under paragraph (2),

20               “(B) the prospective payment rates under  
21               paragraph (3),

22               “(C) outlier and special payments under  
23               paragraph (4),

24               “(D) area wage adjustments under para-  
25               graph (6), and

1                   “(E) additional adjustments under para-  
2                   graph (7).”.

3           (b) *CONFORMING AMENDMENTS.*—Section 1886(b) (42  
4 *U.S.C. 1395ww(b)*) is amended—

5                   (1) in paragraph (1), by inserting “and other  
6                   than a rehabilitation facility described in subsection  
7                   (j)(1)” after “subsection (d)(1)(B)”, and

8                   (2) in paragraph (3)(B)(i), by inserting “and  
9                   subsection (j)” after “For purposes of subsection (d)”.

10          (c) *EFFECTIVE DATE.*—The amendments made by this  
11 section shall apply to cost reporting periods beginning on  
12 or after October 1, 2000, except that the Secretary of Health  
13 and Human Services may require the submission of data  
14 under section 1886(j)(2)(D) of the Social Security Act (as  
15 added by subsection (a)) on and after the date of the enact-  
16 ment of this section.

17 **SEC. 5302. STUDY AND REPORT ON PAYMENTS FOR LONG-**  
18 **TERM CARE HOSPITALS.**

19          (a) *STUDY.*—The Secretary of Health and Human  
20 Services shall—

21                   (1) collect data to develop, establish, administer  
22                   and evaluate a case-mix adjusted prospective payment  
23                   system for hospitals described in section  
24                   1886(d)(1)(B)(iv) (42 *U.S.C. 1395ww(d)(1)(B)(iv)*);  
25                   and

1           (2) *develop a legislative proposal for establishing*  
 2           *and administering such a payment system that in-*  
 3           *cludes an adequate patient classification system that*  
 4           *reflects the differences in patient resource use and*  
 5           *costs among such hospitals.*

6           (b) *REPORT.—Not later than October 1, 1999, the Sec-*  
 7           *retary of Health and Human Services shall submit the pro-*  
 8           *posal described in subsection (a)(2) to the appropriate com-*  
 9           *mittees of Congress.*

10       **CHAPTER 2—PROVISIONS RELATING TO**  
 11   **PART B**

12                   **Subchapter A—Payment for Hospital**  
 13                   **Outpatient Department Services**

14       **SEC. 5311. ELIMINATION OF FORMULA-DRIVEN OVERPAY-**  
 15   **MENTS (FDO) FOR CERTAIN OUTPATIENT**  
 16   **HOSPITAL SERVICES.**

17           (a) *ELIMINATION OF FDO FOR AMBULATORY SUR-*  
 18       *GICAL                   CENTER                   PROCEDURES.—Section*  
 19       *1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is*  
 20       *amended—*

21                   (1) *by striking “of 80 percent”; and*

22                   (2) *by striking the period at the end and insert-*  
 23           *ing the following: “, less the amount a provider may*  
 24           *charge as described in clause (i) of section*  
 25           *1866(a)(2)(A).”.*

1           (b) *ELIMINATION OF FDO FOR RADIOLOGY SERVICES*  
2 *AND DIAGNOSTIC PROCEDURES.*—Section 1833(n)(1)(B)(i)  
3 (42 U.S.C. 1395l(n)(1)(B)(i)) is amended—

4           (1) by striking “of 80 percent”, and

5           (2) by inserting before the period at the end the  
6 following: “, less the amount a provider may charge  
7 as described in clause (ii) of section 1866(a)(2)(A)”.

8           (c) *EFFECTIVE DATE.*—The amendments made by this  
9 section shall apply to services furnished during portions of  
10 cost reporting periods occurring on or after October 1, 1997.

11 **SEC. 5312. EXTENSION OF REDUCTIONS IN PAYMENTS FOR**  
12 **COSTS OF HOSPITAL OUTPATIENT SERVICES.**

13           (a) *REDUCTION IN PAYMENTS FOR CAPITAL-RELATED*  
14 *COSTS.*—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C.  
15 1395x(v)(1)(S)(ii)(I)) is amended by striking “through  
16 1998” and inserting “through 1999 and during fiscal year  
17 2000 before January 1, 2000”.

18           (b) *REDUCTION IN PAYMENTS FOR OTHER COSTS.*—  
19 Section 1861(v)(1)(S)(ii)(II) (42 U.S.C.  
20 1395x(v)(1)(S)(ii)(II)) is amended by striking “through  
21 1998” and inserting “through 1999 and during fiscal year  
22 2000 before January 1, 2000”.

1 **SEC. 5313. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL**  
2 **OUTPATIENT DEPARTMENT SERVICES.**

3 (a) *IN GENERAL.*—Section 1833 (42 U.S.C. 1395l) is  
4 amended by adding at the end the following:

5 “(t) *PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL*  
6 *OUTPATIENT DEPARTMENT SERVICES.*—

7 “(1) *IN GENERAL.*—With respect to hospital out-  
8 patient services designated by the Secretary (in this  
9 section referred to as ‘covered OPD services’) and fur-  
10 nished during a year beginning with 1999, the  
11 amount of payment under this part shall be deter-  
12 mined under a prospective payment system estab-  
13 lished by the Secretary in accordance with this sub-  
14 section.

15 “(2) *SYSTEM REQUIREMENTS.*—Under the pay-  
16 ment system—

17 “(A) the Secretary shall develop a classifica-  
18 tion system for covered OPD services;

19 “(B) the Secretary may establish groups of  
20 covered OPD services, within the classification  
21 system described in subparagraph (A), so that  
22 services classified within each group are com-  
23 parable clinically and with respect to the use of  
24 resources;

25 “(C) the Secretary shall, using data on  
26 claims from 1997 and using data from the most

1           *recent available cost reports, establish relative*  
2           *payment weights for covered OPD services (and*  
3           *any groups of such services described in subpara-*  
4           *graph (B)) based on median hospital costs and*  
5           *shall determine projections of the frequency of*  
6           *utilization of each such service (or group of serv-*  
7           *ices) in 1999;*

8           *“(D) the Secretary shall determine a wage*  
9           *adjustment factor to adjust the portion of pay-*  
10           *ment and coinsurance attributable to labor-relat-*  
11           *ed costs for relative differences in labor and*  
12           *labor-related costs across geographic regions in a*  
13           *budget neutral manner;*

14           *“(E) the Secretary shall establish other ad-*  
15           *justments as determined to be necessary to ensure*  
16           *equitable payments, such as outlier adjustments*  
17           *or adjustments for certain classes of hospitals;*  
18           *and*

19           *“(F) the Secretary shall develop a method*  
20           *for controlling unnecessary increases in the vol-*  
21           *ume of covered OPD services.*

22           *“(3) CALCULATION OF BASE AMOUNTS.—*

23           *“(A) AGGREGATE AMOUNTS THAT WOULD*  
24           *BE PAYABLE IF DEDUCTIBLES WERE DIS-*  
25           *REGARDED.—The Secretary shall estimate the*

1           total amounts that would be payable from the  
2           Trust Fund under this part for covered OPD  
3           services in 1999, determined without regard to  
4           this subsection, as though the deductible under  
5           section 1833(b) did not apply, and as though the  
6           coinsurance described in section  
7           1866(a)(2)(A)(ii) (as in effect before the date of  
8           the enactment of this subsection) continued to  
9           apply.

10           “(B) UNADJUSTED COPAYMENT AMOUNT.—

11           “(i) IN GENERAL.—For purposes of  
12           this subsection, subject to clause (ii), the  
13           ‘unadjusted copayment amount’ applicable  
14           to a covered OPD service (or group of such  
15           services) is 20 percent of the national me-  
16           dian of the charges for the service (or serv-  
17           ices within the group) furnished during  
18           1997, updated to 1999 using the Secretary’s  
19           estimate of charge growth during the period.

20           “(ii) ADJUSTMENTS WHEN FULLY  
21           PHASED IN.—If the pre-deductible payment  
22           percentage for a covered OPD service (or  
23           group of such services) furnished in a year  
24           would be equal to or exceed 80 percent, then  
25           the unadjusted copayment amount shall be

1           25 percent of amount determined under sub-  
2           paragraph (D)(i).

3           “(iii) *RULES FOR NEW SERVICES.*—

4           *The Secretary shall establish rules for estab-*  
5           *lishment of an unadjusted copayment*  
6           *amount for a covered OPD service not fur-*  
7           *nished during 1997, based upon its classi-*  
8           *fication within a group of such services.*

9           “(C) *CALCULATION OF CONVERSION FAC-*

10          *TORS.*—

11          “(i) *FOR 1999.*—

12                 “(I) *IN GENERAL.*—*The Secretary*  
13                 *shall establish a 1999 conversion factor*  
14                 *for determining the medicare pre-de-*  
15                 *ductible OPD fee payment amounts for*  
16                 *each covered OPD service (or group of*  
17                 *such services) furnished in 1999. Such*  
18                 *conversion factor shall be established—*

19                         “(aa) *on the basis of the*  
20                         *weights and frequencies described*  
21                         *in paragraph (2)(C), and*

22                         “(bb) *in such manner that*  
23                         *the sum of the products deter-*  
24                         *mined under subclause (II) for*  
25                         *each service or group equals the*

1                   total project amount described in  
2                   subparagraph (A).

3                   “(II) *PRODUCT.*—The Secretary  
4                   shall determine for each service or  
5                   group the product of the medicare pre-  
6                   deductible OPD fee payment amount  
7                   (taking into account appropriate ad-  
8                   justments described in paragraphs  
9                   (2)(D) and (2)(E)) and the frequencies  
10                  for such service or group.

11                  “(ii) *SUBSEQUENT YEARS.*—Subject to  
12                  paragraph (8)(B), the Secretary shall estab-  
13                  lish a conversion factor for covered OPD  
14                  services furnished in subsequent years in an  
15                  amount equal to the conversion factor estab-  
16                  lished under this subparagraph and appli-  
17                  cable to such services furnished in the pre-  
18                  vious year increased by the OPD payment  
19                  increase factor specified under clause (iii)  
20                  for the year involved.

21                  “(iii) *OPD PAYMENT INCREASE FAC-*  
22                  *TOR.*—For purposes of this subparagraph,  
23                  the ‘OPD payment increase factor’ for serv-  
24                  ices furnished in a year is equal to the sum  
25                  of—

1           “(I) the market basket percentage  
2           increase applicable under section  
3           1886(b)(3)(B)(iii) to hospital dis-  
4           charges occurring during the fiscal  
5           year ending in such year, plus

6           “(II) in the case of a covered OPD  
7           service (or group of such services) fur-  
8           nished in a year in which the pre-de-  
9           ductible payment percentage would not  
10          exceed 80 percent, 3.5 percentage  
11          points.

12          In applying the previous sentence for years  
13          beginning with 2000, the Secretary may  
14          substitute for the market basket percentage  
15          increase under subclause (I) an annual per-  
16          centage increase that is computed and ap-  
17          plied with respect to covered OPD services  
18          furnished in a year in the same manner as  
19          the market basket percentage increase is de-  
20          termined and applied to inpatient hospital  
21          services for discharges occurring in a fiscal  
22          year.

23          “(D) *PRE-DEDUCTIBLE PAYMENT PERCENT-*  
24          *AGE.*—The pre-deductible payment percentage  
25          for a covered OPD service (or group of such serv-

1           ices) furnished in a year is equal to the ratio  
2           of—

3                   “(i) the conversion factor established  
4                   under subparagraph (C) for the year, multi-  
5                   plied by the weighting factor established  
6                   under paragraph (2)(C) for the service (or  
7                   group), to

8                   “(ii) the sum of the amount determined  
9                   under clause (i) and the unadjusted copay-  
10                  ment amount determined under subpara-  
11                  graph (B) for such service or group.

12                  “(E) *CALCULATION OF MEDICARE OPD FEE*  
13                  *SCHEDULE AMOUNTS.*—The Secretary shall com-  
14                  pute a medicare OPD fee schedule amount for  
15                  each covered OPD service (or group of such serv-  
16                  ices) furnished in a year, in an amount equal to  
17                  the product of—

18                   “(i) the conversion factor computed  
19                   under subparagraph (C) for the year, and

20                   “(ii) the relative payment weight (de-  
21                   termined under paragraph (2)(C)) for the  
22                   service or group.

23                  “(4) *MEDICARE PAYMENT AMOUNT.*—The  
24                  amount of payment made from the Trust Fund under  
25                  this part for a covered OPD service (and such services

1 *classified within a group) furnished in a year is de-*  
2 *termined as follows:*

3 “(A) *FEE SCHEDULE AND COPAYMENT*  
4 *AMOUNT.—Add (i) the medicare OPD fee sched-*  
5 *ule amount (computed under paragraph (3)(E))*  
6 *for the service or group and year, and (ii) the*  
7 *unadjusted copayment amount (determined*  
8 *under paragraph (3)(B)) for the service or*  
9 *group.*

10 “(B) *SUBTRACT APPLICABLE DEDUCT-*  
11 *IBLE.—Reduce the sum under subparagraph (A)*  
12 *by the amount of the deductible under section*  
13 *1833(b), to the extent applicable.*

14 “(C) *APPLY PAYMENT PROPORTION TO RE-*  
15 *MAINDER.—Multiply the amount determined*  
16 *under subparagraph (B) by the pre-deductible*  
17 *payment percentage (as determined under para-*  
18 *graph (3)(D)) for the service or group and year*  
19 *involved.*

20 “(D) *LABOR-RELATED ADJUSTMENT.—The*  
21 *amount of payment is the product determined*  
22 *under subparagraph (C) with the labor-related*  
23 *portion of such product adjusted for relative dif-*  
24 *ferences in the cost of labor and other factors de-*

1           *terminated by the Secretary, as computed under*  
2           *paragraph (2)(D).*

3           “(5) *COPAYMENT AMOUNT.*—

4                   “(A) *IN GENERAL.*—*Except as provided in*  
5                   *subparagraph (B), the copayment amount under*  
6                   *this subsection is determined as follows:*

7                           “(i) *UNADJUSTED COPAYMENT.*—*Com-*  
8                           *pute the amount by which the amount de-*  
9                           *scribed in paragraph (4)(B) exceeds the*  
10                           *amount of payment determined under para-*  
11                           *graph (4)(C).*

12                           “(ii) *LABOR ADJUSTMENT.*—*The co-*  
13                           *payment amount is the difference deter-*  
14                           *mined under clause (i) with the labor-relat-*  
15                           *ed portion of such difference adjusted for*  
16                           *relative differences in the cost of labor and*  
17                           *other factors determined by the Secretary,*  
18                           *as computed under paragraphs (2)(D). The*  
19                           *adjustment under this clause shall be made*  
20                           *in a manner that does not result in any*  
21                           *change in the aggregate copayments made*  
22                           *in any year if the adjustment had not been*  
23                           *made.*

24                           “(B) *ELECTION TO OFFER REDUCED COPAY-*  
25                           *MENT AMOUNT.*—*The Secretary shall establish a*

1           *procedure under which a hospital, before the be-*  
2           *ginning of a year (beginning with 1999), may*  
3           *elect to reduce the copayment amount otherwise*  
4           *established under subparagraph (A) for some or*  
5           *all covered OPD services to an amount that is*  
6           *not less than 25 percent of the medicare OPD fee*  
7           *schedule amount (computed under paragraph*  
8           *(3)(E)) for the service involved, adjusted for rel-*  
9           *ative differences in the cost of labor and other*  
10          *factors determined by the Secretary, as computed*  
11          *under subparagraphs (D) and (E) of paragraph*  
12          *(2). Under such procedures, such reduced copay-*  
13          *ment amount may not be further reduced or in-*  
14          *creased during the year involved and the hospital*  
15          *may disseminate information on the reduction of*  
16          *copayment amount effected under this subpara-*  
17          *graph.*

18                 “(C) *NO IMPACT ON DEDUCTIBLES.*—*Noth-*  
19                 *ing in this paragraph shall be construed as af-*  
20                 *fecting a hospital’s authority to waive the charg-*  
21                 *ing of a deductible under section 1833(b).*

22                 “(6) *PERIODIC REVIEW AND ADJUSTMENTS COM-*  
23                 *PONENTS OF PROSPECTIVE PAYMENT SYSTEM.*—

24                         “(A) *PERIODIC REVIEW.*—*The Secretary*  
25                         *may periodically review and revise the groups,*

1           *the relative payment weights, and the wage and*  
2           *other adjustments described in paragraph (2) to*  
3           *take into account changes in medical practice,*  
4           *changes in technology, the addition of new serv-*  
5           *ices, new cost data, and other relevant informa-*  
6           *tion and factors.*

7           “(B) *BUDGET NEUTRALITY ADJUSTMENT.*—  
8           *If the Secretary makes adjustments under sub-*  
9           *paragraph (A), then the adjustments for a year*  
10           *may not cause the estimated amount of expendi-*  
11           *tures under this part for the year to increase or*  
12           *decrease from the estimated amount of expendi-*  
13           *tures under this part that would have been made*  
14           *if the adjustments had not been made.*

15           “(C) *UPDATE FACTOR.*—*If the Secretary de-*  
16           *termines under methodologies described in sub-*  
17           *paragraph (2)(F) that the volume of services*  
18           *paid for under this subsection increased beyond*  
19           *amounts established through those methodologies,*  
20           *the Secretary may appropriately adjust the up-*  
21           *date to the conversion factor otherwise applicable*  
22           *in a subsequent year.*

23           “(7) *SPECIAL RULE FOR AMBULANCE SERV-*  
24           *ICES.*—*The Secretary shall pay for hospital out-*  
25           *patient services that are ambulance services on the*

1 *basis described in the matter in subsection (a)(1) pre-*  
2 *ceding subparagraph (A).*

3 “(8) *SPECIAL RULES FOR CERTAIN HOS-*  
4 *PITALS.—In the case of hospitals described in section*  
5 *1886(d)(1)(B)(v)—*

6 “(A) *the system under this subsection shall*  
7 *not apply to covered OPD services furnished be-*  
8 *fore January 1, 2000; and*

9 “(B) *the Secretary may establish a separate*  
10 *conversion factor for such services in a manner*  
11 *that specifically takes into account the unique*  
12 *costs incurred by such hospitals by virtue of*  
13 *their patient population and service intensity.*

14 “(9) *LIMITATION ON REVIEW.—There shall be no*  
15 *administrative or judicial review under section 1869,*  
16 *1878, or otherwise of—*

17 “(A) *the development of the classification*  
18 *system under paragraph (2), including the estab-*  
19 *lishment of groups and relative payment weights*  
20 *for covered OPD services, of wage adjustment*  
21 *factors, other adjustments, and methods described*  
22 *in paragraph (2)(F);*

23 “(B) *the calculation of base amounts under*  
24 *paragraph (3);*

1                   “(C) periodic adjustments made under  
2                   paragraph (6); and

3                   “(D) the establishment of a separate conver-  
4                   sion factor under paragraph (8)(B).”.

5           (b) COINSURANCE.—Section 1866(a)(2)(A)(ii) (42  
6 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by adding at the  
7 end the following: “In the case of items and services for  
8 which payment is made under part B under the prospective  
9 payment system established under section 1833(t), clause  
10 (ii) of the first sentence shall be applied by substituting for  
11 20 percent of the reasonable charge, the applicable copay-  
12 ment amount established under section 1833(t)(5).”.

13           (c) TREATMENT OF REDUCTION IN COPAYMENT  
14 AMOUNT.—Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6))  
15 is amended—

16                   (1) by striking “or” at the end of subparagraph  
17                   (B),

18                   (2) by striking the period at the end of subpara-  
19                   graph (C) and inserting “; or”, and

20                   (3) by adding at the end the following new sub-  
21                   paragraph:

22                   “(D) a reduction in the copayment amount for  
23                   covered OPD services under section 1833(t)(5)(B).”.

24           (d) CONFORMING AMENDMENTS.—

1           (1) *APPROVED ASC PROCEDURES PERFORMED IN*  
2           *HOSPITAL OUTPATIENT DEPARTMENTS.—*

3                   (A)(i) *Section 1833(i)(3)(A) (42 U.S.C.*  
4                   *1395l(i)(3)(A)) is amended—*

5                           (I) *by inserting “before January 1,*  
6                           *1999” after “furnished”, and*

7                           (II) *by striking “in a cost reporting*  
8                           *period”.*

9                           (ii) *The amendment made by clause (i)*  
10                           *shall apply to services furnished on or after Jan-*  
11                           *uary 1, 1999.*

12                   (B) *Section 1833(a)(4) (42 U.S.C.*  
13                   *1395l(a)(4)) is amended by inserting “or sub-*  
14                   *section (t)” before the semicolon.*

15           (2) *RADIOLOGY AND OTHER DIAGNOSTIC PROCE-*  
16           *DURES.—*

17                   (A) *Section 1833(n)(1)(A) (42 U.S.C.*  
18                   *1395l(n)(1)(A)) is amended by inserting “and*  
19                   *before January 1, 1999” after “October 1, 1988,”*  
20                   *and after “October 1, 1989.”*

21                   (B) *Section 1833(a)(2)(E) (42 U.S.C.*  
22                   *1395l(a)(2)(E)) is amended by inserting “or , for*  
23                   *services or procedures performed on or after Jan-*  
24                   *uary 1, 1999, subsection (t)” before the semi-*  
25                   *colon.*

1           (3) *OTHER HOSPITAL OUTPATIENT SERVICES.*—  
2           Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is  
3           amended—

4                   (A) in clause (i), by inserting “furnished  
5                   before January 1, 1999,” after “(i)”,

6                   (B) in clause (ii), by inserting “before Jan-  
7                   uary 1, 1999,” after “furnished”,

8                   (C) by redesignating clause (iii) as clause  
9                   (iv), and

10                   (D) by inserting after clause (ii), the follow-  
11                   ing new clause:

12                           “(iii) if such services are furnished on  
13                           or after January 1, 1999, the amount deter-  
14                           mined under subsection (t), or”.

## 15           **Subchapter B—Ambulance Services**

### 16           **SEC. 5321. PAYMENTS FOR AMBULANCE SERVICES.**

17           (a) *INTERIM REDUCTIONS.*—

18                   (1) *PAYMENTS DETERMINED ON REASONABLE*  
19                   *COST BASIS.*—Section 1861(v)(1) (42 U.S.C.  
20                   1395x(v)(1)) is amended by adding at the end the fol-  
21                   lowing new subparagraph:

22                           “(V) In determining the reasonable cost of  
23                           ambulance services (as described in subsection  
24                           (s)(7)) provided during a fiscal year (beginning  
25                           with fiscal year 1998 and ending with fiscal

1           year 2002), the Secretary shall not recognize any  
2           costs in excess of costs recognized as reasonable  
3           for ambulance services provided during the pre-  
4           vious fiscal year (after application of this sub-  
5           paragraph), increased by the percentage increase  
6           in the consumer price index for all urban con-  
7           sumers (U.S. city average) as estimated by the  
8           Secretary for the 12-month period ending with  
9           the midpoint of the fiscal year involved reduced  
10          in the case of fiscal year 1998 by 1.0 percentage  
11          point.”.

12           (2) *PAYMENTS DETERMINED ON REASONABLE*  
13          *CHARGE BASIS.*—Section 1842(b) (42 U.S.C.  
14          1395u(b)) is amended by adding at the end the fol-  
15          lowing new paragraph:

16          “(19) For purposes of section 1833(a)(1), the reason-  
17          able charge for ambulance services (as described in section  
18          1861(s)(7)) provided during a fiscal year (beginning with  
19          fiscal year 1998 and ending with fiscal year 2002) may  
20          not exceed the reasonable charge for such services provided  
21          during the previous fiscal year (after application of this  
22          paragraph), increased by the percentage increase in the  
23          consumer price index for all urban consumers (U.S. city  
24          average) as estimated by the Secretary for the 12-month pe-

1 *riod ending with the midpoint of the year involved reduced*  
2 *in the case of fiscal year 1998 by 1.0 percentage point.”.*

3 *(b) ESTABLISHMENT OF PROSPECTIVE FEE SCHED-*  
4 *ULE.—*

5 *(1) PAYMENT IN ACCORDANCE WITH FEE SCHED-*  
6 *ULE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is*  
7 *amended—*

8 *(A) by striking “and (P)” and inserting*  
9 *“(P)”;* and

10 *(B) by striking the semicolon at the end and*  
11 *inserting the following: “, and (Q) with respect*  
12 *to ambulance service, the amounts paid shall be*  
13 *80 percent of the lesser of the actual charge for*  
14 *the services or the amount determined by a fee*  
15 *schedule established by the Secretary under sec-*  
16 *tion 1834(k);”.*

17 *(2) ESTABLISHMENT OF SCHEDULE.—Section*  
18 *1834 (42 U.S.C. 1395m) is amended by adding at the*  
19 *end the following new subsection:*

20 *“(k) ESTABLISHMENT OF FEE SCHEDULE FOR AMBU-*  
21 *LANCE SERVICES.—*

22 *“(1) IN GENERAL.—The Secretary shall establish*  
23 *a fee schedule for payment for ambulance services*  
24 *under this part through a negotiated rulemaking*  
25 *process described in title 5, United States Code, and*

1       *in accordance with the requirements of this sub-*  
2       *section.*

3               “(2) *CONSIDERATIONS.—In establishing such fee*  
4       *schedule, the Secretary shall—*

5                       “(A) *establish mechanisms to control in-*  
6       *creases in expenditures for ambulance services*  
7       *under this part;*

8                       “(B) *establish definitions for ambulance*  
9       *services which link payments to the type of serv-*  
10       *ices provided;*

11                      “(C) *consider appropriate regional and*  
12       *operational differences;*

13                      “(D) *consider adjustments to payment rates*  
14       *to account for inflation and other relevant fac-*  
15       *tors; and*

16                      “(E) *phase in the application of the pay-*  
17       *ment rates under the fee schedule in an efficient*  
18       *and fair manner.*

19               “(3) *SAVINGS.—In establishing such fee schedule,*  
20       *the Secretary shall—*

21                      “(A) *ensure that the aggregate amount of*  
22       *payments made for ambulance services under*  
23       *this part during 1999 does not exceed the aggre-*  
24       *gate amount of payments which would have been*  
25       *made for such services under this part during*

1           *such year if the amendments made by section*  
2           *5321 of the Balanced Budget Act of 1997 had not*  
3           *been made; and*

4           “(B) *set the payment amounts provided*  
5           *under the fee schedule for services furnished in*  
6           *2000 and each subsequent year at amounts equal*  
7           *to the payment amounts under the fee schedule*  
8           *for service furnished during the previous year,*  
9           *increased by the percentage increase in the*  
10          *consumer price index for all urban consumers*  
11          *(U.S. city average) for the 12-month period end-*  
12          *ing with June of the previous year reduced (but*  
13          *not below zero) by 1.0 percentage points.*

14          “(4) *CONSULTATION.—In establishing the fee*  
15          *schedule for ambulance services under this subsection,*  
16          *the Secretary shall consult with various national or-*  
17          *ganizations representing individuals and entities who*  
18          *furnish and regulate ambulance services and share*  
19          *with such organizations relevant data in establishing*  
20          *such schedule.*

21          “(5) *LIMITATION ON REVIEW.—There shall be no*  
22          *administrative or judicial review under section 1869*  
23          *or otherwise of the amounts established under the fee*  
24          *schedule for ambulance services under this subsection,*  
25          *including matters described in paragraph (2).*

1           “(6) *RESTRAINT ON BILLING.*—*The provisions of*  
2           *subparagraphs (A) and (B) of section 1842(b)(18)*  
3           *shall apply to ambulance services for which payment*  
4           *is made under this subsection in the same manner as*  
5           *they apply to services provided by a practitioner de-*  
6           *scribed in section 1842(b)(18)(C).”.*

7           (3) *EFFECTIVE DATE.*—*The amendments made*  
8           *by this section apply to ambulance services furnished*  
9           *on or after January 1, 1999.*

10          (c) *AUTHORIZING PAYMENT FOR PARAMEDIC INTER-*  
11          *CEPT SERVICE PROVIDERS IN RURAL COMMUNITIES.*—*In*  
12          *promulgating regulations to carry out section 1861(s)(7) of*  
13          *the Social Security Act (42 U.S.C. 1395x(s)(7)) with respect*  
14          *to the coverage of ambulance service, the Secretary of Health*  
15          *and Human Services may include coverage of advanced life*  
16          *support services (in this subsection referred to as “ALS*  
17          *intercept services”)* *provided by a paramedic intercept serv-*  
18          *ice provider in a rural area if the following conditions are*  
19          *met:*

20                 (1) *The ALS intercept services are provided*  
21                 *under a contract with one or more volunteer ambu-*  
22                 *lance services and are medically necessary based on*  
23                 *the health condition of the individual being trans-*  
24                 *ported.*

25                 (2) *The volunteer ambulance service involved—*

1           (A) is certified as qualified to provide am-  
2           bulance service for purposes of such section,

3           (B) provides only basic life support services  
4           at the time of the intercept, and

5           (C) is prohibited by State law from billing  
6           for any services.

7           (3) The entity supplying the ALS intercept serv-  
8           ices—

9           (A) is certified as qualified to provide such  
10          services under the medicare program under title  
11          XVIII of the Social Security Act, and

12          (B) bills all recipients who receive ALS  
13          intercept services from the entity, regardless of  
14          whether or not such recipients are medicare  
15          beneficiaries.

16       **CHAPTER 3—PROVISIONS RELATING TO**  
17                               **PARTS A AND B**

18       **Subchapter A—Payments to Skilled Nursing**  
19                               **Facilities**

20       **SEC. 5331. EXTENSION OF COST LIMITS.**

21       The last sentence of section 1888(a) (42 U.S.C.  
22       1395yy(a)) is amended by striking “subsection” the last  
23       place it appears and all that follows and inserting “sub-  
24       section, except that the limits effective for cost reporting pe-  
25       riods beginning on or after October 1, 1997, shall be based

1 *on the limits effective for cost reporting periods beginning*  
2 *on or after October 1, 1996.”*

3 **SEC. 5332. PROSPECTIVE PAYMENT FOR SKILLED NURSING**  
4 **FACILITY SERVICES.**

5 *(a) IN GENERAL.—Section 1888 (42 U.S.C. 1395yy)*  
6 *is amended by adding at the end the following new sub-*  
7 *section:*

8 *“(e) PROSPECTIVE PAYMENT.—*

9 *“(1) PAYMENT PROVISION.—Notwithstanding*  
10 *any other provision of this title, subject to paragraph*  
11 *(7), the amount of the payment for all costs (as de-*  
12 *finied in paragraph (2)(B)) of covered skilled nursing*  
13 *facility services (as defined in paragraph (2)(A)) for*  
14 *each day of such services furnished—*

15 *“(A) in a cost reporting period during the*  
16 *transition period (as defined in paragraph*  
17 *(2)(E)), is equal to the sum of—*

18 *“(i) the non-Federal percentage of the*  
19 *facility-specific per diem rate (computed*  
20 *under paragraph (3)), and*

21 *“(ii) the Federal percentage of the ad-*  
22 *justed Federal per diem rate (determined*  
23 *under paragraph (4)) applicable to the fa-*  
24 *cility; and*

1           “(B) after the transition period is equal to  
2           the adjusted Federal per diem rate applicable to  
3           the facility.

4           “(2) *DEFINITIONS.*—For purposes of this sub-  
5           section:

6           “(A) *COVERED SKILLED NURSING FACILITY*  
7           *SERVICES.*—

8           “(i) *IN GENERAL.*—The term ‘covered  
9           skilled nursing facility services’—

10           “(I) means post-hospital extended  
11           care services as defined in section  
12           1861(i) for which benefits are provided  
13           under part A; and

14           “(II) includes all items and serv-  
15           ices (other than services described in  
16           clause (ii)) for which payment may be  
17           made under part B and which are fur-  
18           nished to an individual who is a resi-  
19           dent of a skilled nursing facility dur-  
20           ing the period in which the individual  
21           is provided covered post-hospital ex-  
22           tended care services.

23           “(ii) *SERVICES EXCLUDED.*—Services  
24           described in this clause are physicians’ serv-  
25           ices, services described by clauses (i)

1 through (iii) of section 1861(s)(2)(K), cer-  
2 tified nurse-midwife services, qualified psy-  
3 chologist services, services of a certified reg-  
4 istered nurse anesthetist, items and services  
5 described in subparagraphs in (F) and (O)  
6 of section 1861(s)(2), and, only with respect  
7 to services furnished during 1998, the trans-  
8 portation costs of electrocardiogram equip-  
9 ment for electrocardiogram tests services  
10 (HCPCS Code R0076). Services described  
11 in this clause do not include any physical,  
12 occupational, or speech-language therapy  
13 services regardless of whether or not the  
14 services are furnished by, or under the su-  
15 pervision of, a physician or other health  
16 care professional.

17 “(B) ALL COSTS.—The term ‘all costs’  
18 means routine service costs, ancillary costs, and  
19 capital-related costs of covered skilled nursing fa-  
20 cility services, but does not include costs associ-  
21 ated with approved educational activities.

22 “(C) NON-FEDERAL PERCENTAGE; FEDERAL  
23 PERCENTAGE.—For—

24 “(i) the first cost reporting period (as  
25 defined in subparagraph (D)) of a facility,

1           the ‘non-Federal percentage’ is 75 percent  
2           and the ‘Federal percentage’ is 25 percent;

3           “(ii) the next cost reporting period of  
4           such facility, the ‘non-Federal percentage’ is  
5           50 percent and the ‘Federal percentage’ is  
6           50 percent; and

7           “(iii) the subsequent cost reporting pe-  
8           riod of such facility, the ‘non-Federal per-  
9           centage’ is 25 percent and the ‘Federal per-  
10          centage’ is 75 percent.

11          “(D) *FIRST COST REPORTING PERIOD.*—The  
12          term ‘first cost reporting period’ means, with re-  
13          spect to a skilled nursing facility, the first cost  
14          reporting period of the facility beginning on or  
15          after July 1, 1998.

16          “(E) *TRANSITION PERIOD.*—

17          “(i) *IN GENERAL.*—The term ‘transi-  
18          tion period’ means, with respect to a skilled  
19          nursing facility, the 3 cost reporting periods  
20          of the facility beginning with the first cost  
21          reporting period.

22          “(ii) *TREATMENT OF NEW SKILLED*  
23          *NURSING FACILITIES.*—In the case of a  
24          skilled nursing facility that does not have a  
25          settled cost report for a cost reporting pe-

1           riod before July 1, 1998, payment for such  
2           services shall be made under this subsection  
3           as if all services were furnished after the  
4           transition period.

5           “(3) *DETERMINATION OF FACILITY SPECIFIC PER*  
6           *DIEM RATES.*—The Secretary shall determine a facil-  
7           ity-specific per diem rate for each skilled nursing fa-  
8           cility for a cost reporting period as follows:

9           “(A) *DETERMINING BASE PAYMENTS.*—The  
10          Secretary shall determine, on a per diem basis,  
11          the total of—

12               “(i) the allowable costs of extended care  
13               services for the facility for cost reporting pe-  
14               riods beginning in 1995 with appropriate  
15               adjustments (as determined by the Sec-  
16               retary) to non-settled cost reports, and

17               “(ii) an estimate of the amounts that  
18               would be payable under part B (disregard-  
19               ing any applicable deductibles, coinsurance  
20               and copayments) for covered skilled nursing  
21               facility services described in paragraph  
22               (2)(A)(i)(II) furnished during such period  
23               to an individual who is a resident of the fa-  
24               cility, regardless of whether or not the pay-

1           *ment was made to the facility or to another*  
2           *entity.*

3           “(B) *UPDATE TO COST REPORTING PERIODS*  
4           *THROUGH 1998.—The Secretary shall update the*  
5           *amount determined under subparagraph (A), for*  
6           *each cost reporting period after the cost reporting*  
7           *period described in subparagraph (A)(i) and up*  
8           *to the first cost reporting period by a factor*  
9           *equal to the skilled nursing facility market bas-*  
10          *ket percentage increase.*

11          “(C) *UPDATING TO APPLICABLE COST RE-*  
12          *PORTING PERIOD.—The Secretary shall further*  
13          *update such amount for each cost reporting pe-*  
14          *riod beginning with the first cost reporting pe-*  
15          *riod and up to and including the cost reporting*  
16          *period involved by a factor equal to the skilled*  
17          *nursing facility market basket percentage in-*  
18          *crease.*

19          “(D)           *CERTAIN           DEMONSTRATION*  
20          *PROJECTS.—In the case of a facility participat-*  
21          *ing in the Nursing Home Case-Mix and Quality*  
22          *Demonstration (RUGS–III), the Secretary shall*  
23          *determine the facility specific per diem rate for*  
24          *any year after 1997 by computing the base pe-*  
25          *riod payments by using the RUGS–III rate re-*

1           *ceived by the facility for 1997, increased by a*  
2           *factor equal to the skilled nursing facility market*  
3           *basket percentage increase.*

4           “(4) *FEDERAL PER DIEM RATE.*—

5                   “(A) *DETERMINATION OF HISTORICAL PER*  
6           *DIEM FOR FACILITIES.*—*For each skilled nursing*  
7           *facility that received payments for post-hospital*  
8           *extended care services during a cost reporting pe-*  
9           *riod beginning in fiscal year 1995 and that was*  
10           *subject to (and not exempted from) the per diem*  
11           *limits referred to in paragraph (1) or (2) of sub-*  
12           *section (a) (and facilities described in subsection*  
13           *(d)), the Secretary shall estimate, on a per diem*  
14           *basis for such cost reporting period, the total*  
15           *of—*

16                   “(i) *subject to subparagraph (I), the*  
17           *allowable costs of extended care services for*  
18           *the facility for cost reporting periods begin-*  
19           *ning in 1995 with appropriate adjustments*  
20           *(as determined by the Secretary) to non-set-*  
21           *tled cost reports, and*

22                   “(ii) *an estimate of the amounts that*  
23           *would be payable under part B (disregard-*  
24           *ing any applicable deductibles, coinsurance*  
25           *and copayments) for covered skilled nursing*

1           *facility services described in paragraph*  
2           *(2)(A)(i)(II) furnished during such period*  
3           *to an individual who is a resident of the fa-*  
4           *ility, regardless of whether or not the pay-*  
5           *ment was made to the facility or to another*  
6           *entity.*

7           “(B) *UPDATE TO COST REPORTING PERIODS*  
8           *THROUGH 1998.—The Secretary shall update the*  
9           *amount determined under subparagraph (A), for*  
10          *each cost reporting period after the cost reporting*  
11          *period described in subparagraph (A)(i) and up*  
12          *to the first cost reporting period by a factor*  
13          *equal to the skilled nursing facility market bas-*  
14          *ket percentage increase reduced (on an*  
15          *annualized basis) by 1 percentage point.*

16          “(C) *COMPUTATION OF STANDARDIZED PER*  
17          *DIEM RATE.—The Secretary shall standardize*  
18          *the amount updated under subparagraph (B) for*  
19          *each facility by—*

20                  “(i) *adjusting for variations among fa-*  
21                  *ility by area in the average facility wage*  
22                  *level per diem, and*

23                  “(ii) *adjusting for variations in case*  
24                  *mix per diem among facilities.*

1           “(D) *COMPUTATION OF WEIGHTED AVERAGE*  
2           *PER DIEM RATE.*—*The Secretary shall compute a*  
3           *weighted average per diem rate by computing an*  
4           *average of the standardized amounts computed*  
5           *under subparagraph (C), weighted for each facil-*  
6           *ity by the number of days of extended care serv-*  
7           *ices furnished during the cost reporting period*  
8           *referred to in subparagraph (A). The Secretary*  
9           *may compute and apply such average separately*  
10           *for facilities located in urban and rural areas*  
11           *(as defined in section 1886(d)(2)(D)).*

12           “(E) *UPDATING.*—

13           “(i) *FISCAL YEAR 1999.*—*For fiscal*  
14           *year 1999, the Secretary shall compute for*  
15           *each skilled nursing facility an unadjusted*  
16           *Federal per diem rate equal to the weighted*  
17           *average per diem rate computed under sub-*  
18           *paragraph (D) and applicable to the facil-*  
19           *ity increased by skilled nursing facility*  
20           *market basket percentage change for the fis-*  
21           *cal year involved.*

22           “(ii) *SUBSEQUENT FISCAL YEARS.*—  
23           *For each subsequent fiscal year the Sec-*  
24           *retary shall compute for each skilled nurs-*  
25           *ing facility an unadjusted Federal per diem*

1           rate equal to the Federal per diem rate com-  
2           puted under this subparagraph for the pre-  
3           vious fiscal year and applicable to the facil-  
4           ity increased by the skilled nursing facility  
5           market basket percentage change for the fis-  
6           cal year involved.

7           “(F) *ADJUSTMENT FOR CASE MIX CREEP.*—  
8           Insofar as the Secretary determines that such ad-  
9           justments under subparagraph (G)(i) for a pre-  
10          vious fiscal year (or estimates that such adjust-  
11          ments for a future fiscal year) did (or are likely  
12          to) result in a change in aggregate payments  
13          under this subsection during the fiscal year that  
14          are a result of changes in the coding or classi-  
15          fication of residents that do not reflect real  
16          changes in case mix, the Secretary may adjust  
17          unadjusted Federal per diem rates for subsequent  
18          years so as to discount the effect of such coding  
19          or classification changes.

20          “(G) *APPLICATION TO SPECIFIC FACILI-*  
21          *TIES.*—The Secretary shall compute for each  
22          skilled nursing facility for each fiscal year (be-  
23          ginning with fiscal year 1998) an adjusted Fed-  
24          eral per diem rate equal to the unadjusted Fed-  
25          eral per diem rate determined under subpara-

1           *graph (E), as adjusted under subparagraph (F),*  
2           *and as further adjusted as follows:*

3                   “(i) *ADJUSTMENT FOR CASE MIX.—The*  
4                   *Secretary shall provide for an appropriate*  
5                   *adjustment to account for case mix. Such*  
6                   *adjustment shall be based on a resident clas-*  
7                   *sification system, established by the Sec-*  
8                   *retary, that accounts for the relative re-*  
9                   *source utilization of different patient types.*  
10                   *The case mix adjustment shall be based on*  
11                   *resident assessment data and other data*  
12                   *that the Secretary considers appropriate.*

13                   “(ii) *ADJUSTMENT FOR GEOGRAPHIC*  
14                   *VARIATIONS IN LABOR COSTS.—The Sec-*  
15                   *retary shall adjust the portion of such per*  
16                   *diem rate attributable to wages and wage-*  
17                   *related costs for the area in which the facil-*  
18                   *ity is located compared to the national av-*  
19                   *erage of such costs using an appropriate*  
20                   *wage index as determined by the Secretary.*  
21                   *Such adjustment shall be done in a manner*  
22                   *that does not result in aggregate payments*  
23                   *under this subsection that are greater or less*  
24                   *than those that would otherwise be made if*  
25                   *such adjustment had not been made.*

1           “(H) *PUBLICATION OF INFORMATION ON*  
2           *PER DIEM RATES.*—*The Secretary shall provide*  
3           *for publication in the Federal Register, before the*  
4           *July 1 preceding each fiscal year (beginning*  
5           *with fiscal year 1999), of—*

6                     “(i) *the unadjusted Federal per diem*  
7                     *rates to be applied to days of covered skilled*  
8                     *nursing facility services furnished during*  
9                     *the fiscal year,*

10                    “(ii) *the case mix classification system*  
11                    *to be applied under subparagraph (G)(i)*  
12                    *with respect to such services during the fis-*  
13                    *cal year, and*

14                    “(iii) *the factors to be applied in mak-*  
15                    *ing the area wage adjustment under sub-*  
16                    *paragraph (G)(ii) with respect to such serv-*  
17                    *ices.*

18           “(I) *EXCLUSION OF EXCEPTION PAYMENTS*  
19           *FROM DETERMINATION OF HISTORICAL PER*  
20           *DIEM.*—*In determining allowable costs under*  
21           *subparagraph (A)(i), the Secretary shall not take*  
22           *into account any payments described in sub-*  
23           *section (c).*

1           “(5) *SKILLED NURSING FACILITY MARKET BAS-*  
2           *KET INDEX AND PERCENTAGE.*—*For purposes of this*  
3           *subsection:*

4                   “(A) *SKILLED NURSING FACILITY MARKET*  
5                   *BASKET INDEX.*—*The Secretary shall establish a*  
6                   *skilled nursing facility market basket index that*  
7                   *reflects changes over time in the prices of an ap-*  
8                   *propriate mix of goods and services included in*  
9                   *covered skilled nursing facility services.*

10                   “(B) *SKILLED NURSING FACILITY MARKET*  
11                   *BASKET PERCENTAGE.*—*The term ‘skilled nurs-*  
12                   *ing facility market basket percentage’ means, for*  
13                   *a fiscal year or other annual period and as cal-*  
14                   *culated by the Secretary, the percentage change*  
15                   *in the skilled nursing facility market basket*  
16                   *index (established under subparagraph (A)) from*  
17                   *the midpoint of the prior fiscal year (or period)*  
18                   *to the midpoint of the fiscal year (or other pe-*  
19                   *riod) involved.*

20                   “(6) *SUBMISSION OF RESIDENT ASSESSMENT*  
21                   *DATA.*—*A skilled nursing facility shall provide the*  
22                   *Secretary, in a manner and within the timeframes*  
23                   *prescribed by the Secretary, the resident assessment*  
24                   *data necessary to develop and implement the rates*  
25                   *under this subsection. For purposes of meeting such*

1        *requirement, a skilled nursing facility may submit*  
2        *the resident assessment data required under section*  
3        *1819(b)(3), using the standard instrument designated*  
4        *by the State under section 1819(e)(5).*

5            *“(7) TRANSITION FOR MEDICARE SWING BED*  
6        *HOSPITALS.—*

7            *“(A) IN GENERAL.—The Secretary shall de-*  
8        *termine an appropriate manner in which to*  
9        *apply this subsection to the facilities described in*  
10       *subparagraph (B), taking into account the pur-*  
11       *poses of this subsection, and shall provide that at*  
12       *the end of the transition period (as defined in*  
13       *paragraph (2)(E)) such facilities shall be paid*  
14       *only under this subsection. Payment shall not be*  
15       *made under this subsection to such facilities for*  
16       *cost reporting periods beginning before such date*  
17       *(not earlier than July 1, 1999) as the Secretary*  
18       *specifies.*

19           *“(B) FACILITIES DESCRIBED.—The facili-*  
20       *ties described in this subparagraph are facilities*  
21       *that have in effect an agreement described in sec-*  
22       *tion 1883, for which payment is made for the*  
23       *furnishing of extended care services on a reason-*  
24       *able cost basis under section 1814(l) (as in effect*  
25       *on and after such date).*

1           “(8) *LIMITATION ON REVIEW.*—*There shall be no*  
2           *administrative or judicial review under section 1869,*  
3           *1878, or otherwise of—*

4                     “(A) *the establishment of Federal per diem*  
5                     *rates under paragraph (4), including the com-*  
6                     *putation of the standardized per diem rates*  
7                     *under paragraph (4)(C), adjustments and correc-*  
8                     *tions for case mix under paragraphs (4)(F) and*  
9                     *(4)(G)(i), and adjustments for variations in*  
10                    *labor-related costs under paragraph (4)(G)(ii);*  
11                    *and*

12                    “(B) *the establishment of transitional*  
13                    *amounts under paragraph (7).”.*

14           (b) *CONSOLIDATED BILLING.*—

15                    (1) *FOR SNF SERVICES.*—*Section 1862(a) (42*  
16                    *U.S.C. 1395y(a)) is amended—*

17                             (A) *by striking “or” at the end of para-*  
18                             *graph (15),*

19                             (B) *by striking the period at the end of*  
20                             *paragraph (16) and inserting “; or”, and*

21                             (C) *by inserting after paragraph (16) the*  
22                             *following new paragraph:*

23                             “(17) *which are covered skilled nursing facility*  
24                             *services described in section 1888(e)(2)(A)(i)(II) and*  
25                             *which are furnished to an individual who is a resi-*

1        *dent of a skilled nursing facility by an entity other*  
2        *than the skilled nursing facility, unless the services*  
3        *are furnished under arrangements (as defined in sec-*  
4        *tion 1861(w)(1)) with the entity made by the skilled*  
5        *nursing facility, or such services are furnished by a*  
6        *physician described in section 1861(r)(1).”.*

7                *(2) REQUIRING PAYMENT FOR ALL PART B ITEMS*  
8        *AND SERVICES TO BE MADE TO FACILITY.—The first*  
9        *sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6))*  
10        *is amended—*

11                *(A) by striking “and (D)” and inserting*  
12                *“(D)”;* and

13                *(B) by striking the period at the end and*  
14        *inserting the following: “, and (E) in the case of*  
15        *an item or service (other than services described*  
16        *in section 1888(e)(2)(A)(ii)) furnished to an in-*  
17        *dividual who (at the time the item or service is*  
18        *furnished) is a resident of a skilled nursing facil-*  
19        *ity, payment shall be made to the facility (with-*  
20        *out regard to whether or not the item or service*  
21        *was furnished by the facility, by others under ar-*  
22        *rangement with them made by the facility, under*  
23        *any other contracting or consulting arrange-*  
24        *ment, or otherwise).”.*

1           (3) *PAYMENT RULES.*—Section 1888(e) (42  
2           *U.S.C. 1395yy(e)*), as added by subsection (a), is  
3           amended by adding at the end the following:

4           “(9) *PAYMENT FOR CERTAIN SERVICES.*—

5           “(A) *IN GENERAL.*—In the case of an item  
6           or service furnished by a skilled nursing facility  
7           (or by others under arrangement with them  
8           made by a skilled nursing facility or under any  
9           other contracting or consulting arrangement or  
10          otherwise) for which payment would otherwise  
11          (but for this paragraph) be made under part B  
12          in an amount determined in accordance with  
13          section 1833(a)(2)(B), the amount of the pay-  
14          ment under such part shall be based on the part  
15          B methodology applicable to the item or service,  
16          except that for items and services that would be  
17          included in a facility’s cost report if not for this  
18          section, the facility may continue to use a cost  
19          report for reimbursement purposes until the pro-  
20          spective payment system established under this  
21          section is implemented.

22          “(B) *THERAPY AND PATHOLOGY SERV-*  
23          *ICES.*—Payment for physical therapy, occupa-  
24          tional therapy, respiratory therapy, and speech  
25          language pathology services shall reflect new sal-

1            *ary equivalency guidelines calculated pursuant*  
2            *to section 1861(v)(5) when finalized through the*  
3            *regulatory process.*

4            *“(10) REQUIRED CODING.—No payment may be*  
5            *made under part B for items and services (other than*  
6            *services described in paragraph (2)(A)(ii)) furnished*  
7            *to an individual who is a resident of a skilled nurs-*  
8            *ing facility unless the claim for such payment in-*  
9            *cludes a code (or codes) under a uniform coding sys-*  
10           *tem specified by the Secretary that identifies the*  
11           *items or services delivered.”.*

12           *(4) CONFORMING AMENDMENTS.—*

13           *(A) Section 1819(b)(3)(C)(i) (42 U.S.C.*  
14           *1395i–3(b)(3)(C)(i)) is amended by striking*  
15           *“Such” and inserting “Subject to the timeframes*  
16           *prescribed by the Secretary under section*  
17           *1888(t)(6), such”.*

18           *(B) Section 1832(a)(1) (42 U.S.C.*  
19           *1395k(a)(1)) is amended by striking “(2);” and*  
20           *inserting “(2) and section 1842(b)(6)(E);”.*

21           *(C) Section 1833(a)(2)(B) (42 U.S.C.*  
22           *1395l(a)(2)(B)) is amended by inserting “or sec-*  
23           *tion 1888(e)(9)” after “section 1886”.*

24           *(D) Section 1861(h) (42 U.S.C 1395x(h)) is*  
25           *amended—*

1                   (i) in the opening paragraph, by strik-  
2                   ing “paragraphs (3) and (6)” and inserting  
3                   “paragraphs (3), (6), and (7)”, and

4                   (ii) in paragraph (7), after “skilled  
5                   nursing facilities”, by inserting “, or by  
6                   others under arrangements with them made  
7                   by the facility”.

8                   (E) Section 1866(a)(1)(H) (42 U.S.C.  
9                   1395cc(a)(1)(H)) is amended—

10                   (i) by redesignating clauses (i) and (ii)  
11                   as subclauses (I) and (II) respectively,

12                   (ii) by inserting “(i)” after “(H)”, and

13                   (iii) by adding after clause (i), as so  
14                   redesignated, the following new clause:

15                   “(i) in the case of skilled nursing facilities  
16                   which provide covered skilled nursing facility serv-  
17                   ices—

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

21                   “(II) for which the individual is entitled to  
22                   have payment made under this title,

23                   to have items and services (other than services de-  
24                   scribed in section 1888(e)(2)(A)(ii)) furnished by the  
25                   skilled nursing facility or otherwise under arrange-

1        *ments (as defined in section 1861(w)(1)) made by the*  
2        *skilled nursing facility,”.*

3        *(c) MEDICAL REVIEW PROCESS.—In order to ensure*  
4        *that medicare beneficiaries are furnished appropriate serv-*  
5        *ices in skilled nursing facilities, the Secretary of Health and*  
6        *Human Services shall establish and implement a thorough*  
7        *medical review process to examine the effects of the amend-*  
8        *ments made by this section on the quality of covered skilled*  
9        *nursing facility services furnished to medicare beneficiaries.*  
10       *In developing such a medical review process, the Secretary*  
11       *shall place a particular emphasis on the quality of non-*  
12       *routine covered services and physicians’ services for which*  
13       *payment is made under title XVIII of the Social Security*  
14       *Act for which payment is made under section 1848 of such*  
15       *Act.*

16       *(d) EFFECTIVE DATE.—The amendments made by this*  
17       *section are effective for cost reporting periods beginning on*  
18       *or after July 1, 1998; except that the amendments made*  
19       *by subsection (b) shall apply to items and services furnished*  
20       *on or after July 1, 1998.*

1     **Subchapter B—Home Health Services and**  
2                                    **Benefits**

3                    **PART I—PAYMENTS FOR HOME HEALTH**  
4                                    **SERVICES**

5     **SEC. 5341. RECAPTURING SAVINGS RESULTING FROM TEM-**  
6                                    **PORARY FREEZE ON PAYMENT INCREASES**  
7                                    **FOR HOME HEALTH SERVICES.**

8            (a) *BASING UPDATES TO PER VISIT COST LIMITS ON*  
9     *LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)*  
10    *(42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the*  
11    *end the following:*

12            “(iv) *In establishing limits under this subparagraph*  
13    *for cost reporting periods beginning after September 30,*  
14    *1997, the Secretary shall not take into account any changes*  
15    *in the home health market basket, as determined by the Sec-*  
16    *retary, with respect to cost reporting periods which began*  
17    *on or after July 1, 1994, and before July 1, 1996.”.*

18            (b) *NO EXCEPTIONS PERMITTED BASED ON AMEND-*  
19    *MENT.—The Secretary of Health and Human Services shall*  
20    *not consider the amendment made by subsection (a) in mak-*  
21    *ing any exemptions and exceptions pursuant to section*  
22    *1861(v)(1)(L)(ii) of the Social Security Act (42 U.S.C.*  
23    *1395x(v)(1)(L)(ii)).*

1 **SEC. 5342. INTERIM PAYMENTS FOR HOME HEALTH SERV-**  
2 **ICES.**

3 (a) *REDUCTIONS IN COST LIMITS.*—Section  
4 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amend-  
5 ed—

6 (1) by moving the indentation of subclauses (I)  
7 through (III) 2-ems to the left;

8 (2) in subclause (I), by inserting “of the mean  
9 of the labor-related and nonlabor per visit costs for  
10 freestanding home health agencies” before the comma  
11 at the end;

12 (3) in subclause (II), by striking “, or” and in-  
13 serting “of such mean,”;

14 (4) in subclause (III)—

15 (A) by inserting “and before October 1,  
16 1997,” after “July 1, 1987”, and

17 (B) by striking the period at the end and  
18 inserting “of such mean, or”; and

19 (5) by striking the matter following subclause  
20 (III) and inserting the following:

21 “(IV) October 1, 1997, 105 percent of the median  
22 of the labor-related and nonlabor per visit costs for  
23 freestanding home health agencies.”.

24 (b) *DELAY IN UPDATES.*—Section 1861(v)(1)(L)(iii)  
25 (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by inserting “,

1 *or on or after July 1, 1997, and before October 1, 1997”*  
2 *after “July 1, 1996”.*

3 (c) *ADDITIONS TO COST LIMITS.—Section*  
4 *1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)), as amended by*  
5 *section 5341(a), is amended by adding at the end the follow-*  
6 *ing:*

7 “(v) *For services furnished by home health agencies for*  
8 *cost reporting periods beginning on or after October 1,*  
9 *1997, the Secretary shall provide for an interim system of*  
10 *limits. Payment shall be the lower of—*

11 “(I) *costs determined under the preceding provi-*  
12 *sions of this subparagraph, or*

13 “(II) *an agency-specific per beneficiary annual*  
14 *limitation calculated from the agency’s 12-month cost*  
15 *reporting period ending on or after January 1, 1994,*  
16 *and on or before December 31, 1994, based on reason-*  
17 *able costs (including nonroutine medical supplies),*  
18 *updated by the home health market basket index.*

19 *The per beneficiary limitation in subclause (II) shall be*  
20 *multiplied by the agency’s unduplicated census count of pa-*  
21 *tients (entitled to benefits under this title) for the cost re-*  
22 *porting period subject to the limitation to determine the ag-*  
23 *gregate agency-specific per beneficiary limitation.*

1       “(vi) For services furnished by home health agencies  
2 for cost reporting periods beginning on or after October 1,  
3 1997, the following rules apply:

4               “(I) For new providers and those providers with-  
5 out a 12-month cost reporting period ending in cal-  
6 endar year 1994, the per beneficiary limitation shall  
7 be equal to the median of these limits (or the Sec-  
8 retary’s best estimates thereof) applied to other home  
9 health agencies as determined by the Secretary. A  
10 home health agency that has altered its corporate  
11 structure or name shall not be considered a new pro-  
12 vider for this purpose.

13               “(II) For beneficiaries who use services furnished  
14 by more than one home health agency, the per bene-  
15 ficiary limitations shall be prorated among the agen-  
16 cies.”.

17       (d) DEVELOPMENT OF CASE MIX SYSTEM.—The Sec-  
18 retary of Health and Human Services shall expand research  
19 on a prospective payment system for home health agencies  
20 under the medicare program under title XVIII of the Social  
21 Security Act (42 U.S.C. 1395 et seq.) that ties prospective  
22 payments to a unit of service, including an intensive effort  
23 to develop a reliable case mix adjuster that explains a sig-  
24 nificant amount of the variances in costs.



1        *actment of the this section, including medical sup-*  
2        *plies, shall be paid for on the basis of a prospective*  
3        *payment amount determined under this subsection*  
4        *and applicable to the services involved. In implement-*  
5        *ing the system, the Secretary may provide for a tran-*  
6        *sition (of not longer than 4 years) during which a*  
7        *portion of such payment is based on agency-specific*  
8        *costs, but only if such transition does not result in ag-*  
9        *gregate payments under this title that exceed the ag-*  
10       *gregate payments that would be made if such a tran-*  
11       *sition did not occur.*

12            *“(2) UNIT OF PAYMENT.—In defining a prospec-*  
13        *tive payment amount under the system under this*  
14        *subsection, the Secretary shall consider an appro-*  
15        *priate unit of service and the number, type, and du-*  
16        *ration of visits provided within that unit, potential*  
17        *changes in the mix of services provided within that*  
18        *unit and their cost, and a general system design that*  
19        *provides for continued access to quality services.*

20            *“(3) PAYMENT BASIS.—*

21                    *“(A) INITIAL BASIS.—*

22                            *“(i) IN GENERAL.—Under such system*  
23        *the Secretary shall provide for computation*  
24        *of a standard prospective payment amount*  
25        *(or amounts). Such amount (or amounts)*

1 shall initially be based on the most current  
2 audited cost report data available to the  
3 Secretary and shall be computed in a man-  
4 ner so that the total amounts payable under  
5 the system for fiscal year 2000 shall be  
6 equal to the total amount that would have  
7 been made if the system had not been in ef-  
8 fect but if the reduction in limits described  
9 in clause (ii) had been in effect. Such  
10 amount shall be standardized in a manner  
11 that eliminates the effect of variations in  
12 relative case mix and wage levels among  
13 different home health agencies in a budget  
14 neutral manner consistent with the case  
15 mix and wage level adjustments provided  
16 under paragraph (4)(A). Under the system,  
17 the Secretary may recognize regional dif-  
18 ferences or differences based upon whether  
19 or not the services or agency are in an ur-  
20 banized area.

21 “(ii) *REDUCTION.*—The reduction de-  
22 scribed in this clause is a reduction by 15  
23 percent in the cost limits and per bene-  
24 ficiary limits described in section

1 1861(v)(1)(L), as those limits are in effect  
2 on September 30, 1999.

3 “(B) ANNUAL UPDATE.—

4 “(i) IN GENERAL.—The standard pro-  
5 spective payment amount (or amounts)  
6 shall be adjusted for each fiscal year (begin-  
7 ning with fiscal year 2001) in a prospective  
8 manner specified by the Secretary by the  
9 home health market basket percentage in-  
10 crease applicable to the fiscal year involved.

11 “(ii) HOME HEALTH MARKET BASKET  
12 PERCENTAGE INCREASE.—For purposes of  
13 this subsection, the term ‘home health mar-  
14 ket basket percentage increase’ means, with  
15 respect to a fiscal year, a percentage (esti-  
16 mated by the Secretary before the beginning  
17 of the fiscal year) determined and applied  
18 with respect to the mix of goods and services  
19 included in home health services in the  
20 same manner as the market basket percent-  
21 age increase under section  
22 1886(b)(3)(B)(iii) is determined and ap-  
23 plied to the mix of goods and services com-  
24 prising inpatient hospital services for the  
25 fiscal year.

1           “(C) *ADJUSTMENT FOR OUTLIERS.*—*The*  
2           *Secretary shall reduce the standard prospective*  
3           *payment amount (or amounts) under this para-*  
4           *graph applicable to home health services fur-*  
5           *nished during a period by such proportion as*  
6           *will result in an aggregate reduction in pay-*  
7           *ments for the period equal to the aggregate in-*  
8           *crease in payments resulting from the applica-*  
9           *tion of paragraph (5) (relating to outliers).*

10          “(4) *PAYMENT COMPUTATION.*—

11           “(A) *IN GENERAL.*—*The payment amount*  
12           *for a unit of home health services shall be the ap-*  
13           *plicable standard prospective payment amount*  
14           *adjusted as follows:*

15           “(i) *CASE MIX ADJUSTMENT.*—*The*  
16           *amount shall be adjusted by an appropriate*  
17           *case mix adjustment factor (established*  
18           *under subparagraph (B)).*

19           “(ii) *AREA WAGE ADJUSTMENT.*—*The*  
20           *portion of such amount that the Secretary*  
21           *estimates to be attributable to wages and*  
22           *wage-related costs shall be adjusted for geo-*  
23           *graphic differences in such costs by an area*  
24           *wage adjustment factor (established under*  
25           *subparagraph (C)) for the area in which the*

1            *services are furnished or such other area as*  
2            *the Secretary may specify.*

3            *“(B) ESTABLISHMENT OF CASE MIX AD-*  
4            *JUSTMENT FACTORS.—The Secretary shall estab-*  
5            *lish appropriate case mix adjustment factors for*  
6            *home health services in a manner that explains*  
7            *a significant amount of the variation in cost*  
8            *among different units of services.*

9            *“(C) ESTABLISHMENT OF AREA WAGE AD-*  
10           *JUSTMENT FACTORS.—The Secretary shall estab-*  
11           *lish area wage adjustment factors that reflect the*  
12           *relative level of wages and wage-related costs ap-*  
13           *plicable to the furnishing of home health services*  
14           *in a geographic area compared to the national*  
15           *average applicable level. Such factors may be the*  
16           *factors used by the Secretary for purposes of sec-*  
17           *tion 1886(d)(3)(E).*

18           *“(5) OUTLIERS.—The Secretary may provide for*  
19           *an addition or adjustment to the payment amount*  
20           *otherwise made in the case of outliers because of un-*  
21           *usual variations in the type or amount of medically*  
22           *necessary care. The total amount of the additional*  
23           *payments or payment adjustments made under this*  
24           *paragraph with respect to a fiscal year may not ex-*  
25           *ceed 5 percent of the total payments projected or esti-*

1 *mated to be made based on the prospective payment*  
2 *system under this subsection in that year.*

3 “(6) *PRORATION OF PROSPECTIVE PAYMENT*  
4 *AMOUNTS.—If a beneficiary elects to transfer to, or*  
5 *receive services from, another home health agency*  
6 *within the period covered by the prospective payment*  
7 *amount, the payment shall be prorated between the*  
8 *home health agencies involved.*

9 “(c) *REQUIREMENTS FOR PAYMENT INFORMATION.—*  
10 *With respect to home health services furnished on or after*  
11 *October 1, 1998, no claim for such a service may be paid*  
12 *under this title unless—*

13 “(1) *the claim has the unique identifier for the*  
14 *physician who prescribed the services or made the cer-*  
15 *tification described in section 1814(a)(2) or*  
16 *1835(a)(2)(A); and*

17 “(2) *in the case of a service visit described in*  
18 *paragraph (1), (2), (3), or (4) of section 1861(m), the*  
19 *claim has information (coded in an appropriate*  
20 *manner) on the length of time of the service visit, as*  
21 *measured in 15 minute increments.*

22 “(d) *LIMITATION ON REVIEW.—There shall be no ad-*  
23 *ministrative or judicial review under section 1869, 1878,*  
24 *or otherwise of—*

1           “(1) the establishment of a transition period  
2 under subsection (b)(1);

3           “(2) the definition and application of payment  
4 units under subsection (b)(2);

5           “(3) the computation of initial standard pro-  
6 spective payment amounts under subsection (b)(3)(A)  
7 (including the reduction described in clause (ii) of  
8 such subsection);

9           “(4) the adjustment for outliers under subsection  
10 (b)(3)(C);

11           “(5) case mix and area wage adjustments under  
12 subsection (b)(4);

13           “(6) any adjustments for outliers under sub-  
14 section (b)(5); and

15           “(7) the amounts or types of exceptions or ad-  
16 justments under subsection (b)(7).”.

17       (b) *ELIMINATION OF PERIODIC INTERIM PAYMENTS*  
18 *FOR HOME HEALTH AGENCIES.*—Section 1815(e)(2) (42  
19 *U.S.C. 1395g(e)(2)) is amended—*

20           (1) by inserting “and” at the end of subpara-  
21 graph (C),

22           (2) by striking subparagraph (D), and

23           (3) by redesignating subparagraph (E) as sub-  
24 paragraph (D).

25       (c) *CONFORMING AMENDMENTS.*—

1           (1) *PAYMENTS UNDER PART A.—Section 1814(b)*  
2           *(42 U.S.C. 1395f(b)) is amended in the matter pre-*  
3           *ceding paragraph (1) by striking “and 1886” and in-*  
4           *serting “1886, and 1895”.*

5           (2) *TREATMENT OF ITEMS AND SERVICES PAID*  
6           *UNDER PART B.—*

7           (A) *PAYMENTS UNDER PART B.—Section*  
8           *1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—*

9                   *(i) by amending subparagraph (A) to*  
10                   *read as follows:*

11                   *“(A) with respect to home health services*  
12                   *(other than a covered osteoporosis drug) (as de-*  
13                   *fined in section 1861(kk)), the amount deter-*  
14                   *mined under the prospective payment system*  
15                   *under section 1895;”;*

16                   *(ii) by striking “and” at the end of*  
17                   *subparagraph (E);*

18                   *(iii) by adding “and” at the end of*  
19                   *subparagraph (F); and*

20                   *(iv) by adding at the end the following*  
21                   *new subparagraph:*

22                   *“(G) with respect to items and services de-*  
23                   *scribed in section 1861(s)(10)(A), the lesser of—*

24                           *“(i) the reasonable cost of such services,*  
25                           *as determined under section 1861(v), or*

1           “(i) the customary charges with re-  
2           spect to such services,  
3           or, if such services are furnished by a public pro-  
4           vider of services, or by another provider which  
5           demonstrates to the satisfaction of the Secretary  
6           that a significant portion of its patients are low-  
7           income (and requests that payment be made  
8           under this provision), free of charge or at nomi-  
9           nal charges to the public, the amount determined  
10          in accordance with section 1814(b)(2);”.

11           (B) *REQUIRING PAYMENT FOR ALL ITEMS*  
12          *AND SERVICES TO BE MADE TO AGENCY.—*

13           (i) *IN GENERAL.—The first sentence of*  
14          *section 1842(b)(6) (42 U.S.C. 1395u(b)(6))*  
15          *(as amended by section 5332(b)(2)) is*  
16          *amended—*

17                   (I) *by striking “and (E)” and in-*  
18                   *serting “(E)”;* and

19                   (II) *by striking the period at the*  
20                   *end and inserting the following: “, and*  
21                   *(F) in the case of home health services*  
22                   *furnished to an individual who (at the*  
23                   *time the item or service is furnished) is*  
24                   *under a plan of care of a home health*  
25                   *agency, payment shall be made to the*

1           agency (without regard to whether or  
2           not the item or service was furnished  
3           by the agency, by others under ar-  
4           rangement with them made by the  
5           agency, or when any other contracting  
6           or consulting arrangement, or other-  
7           wise).”.

8           (ii) *CONFORMING AMENDMENT.*—Sec-  
9           tion 1832(a)(1) (42 U.S.C. 1395k(a)(1)) (as  
10           amended by section 5332(b)(4)(B)) is  
11           amended by striking “section  
12           1842(b)(6)(E);” and inserting “subpara-  
13           graphs (E) and (F) of section 1842(b)(6);”.

14           (C) *EXCLUSIONS FROM COVERAGE.*—Section  
15           1862(a) (42 U.S.C. 1395y(a)), as amended by  
16           section 5332(b)(1), is amended—

17           (i) by striking “or” at the end of para-  
18           graph (16);

19           (ii) by striking the period at the end of  
20           paragraph (17) and inserting “or”; and

21           (iii) by inserting after paragraph (17)  
22           the following:

23           “(18) where such expenses are for home health  
24           services furnished to an individual who is under a  
25           plan of care of the home health agency if the claim

1       for payment for such services is not submitted by the  
2       agency.”.

3       (d) *EFFECTIVE DATE.*—*Except as otherwise provided,*  
4 *the amendments made by this section shall apply to cost*  
5 *reporting periods beginning on or after October 1, 1999.*

6       (e) *CONTINGENCY.*—*If the Secretary of Health and*  
7 *Human Services for any reason does not establish and im-*  
8 *plement the prospective payment system for home health*  
9 *services described in section 1895(b) of the Social Security*  
10 *Act (as added by subsection (a)) for cost reporting periods*  
11 *described in subsection (d), for such cost reporting periods*  
12 *the Secretary shall provide for a reduction by 15 percent*  
13 *in the cost limits and per beneficiary limits described in*  
14 *section 1861(v)(1)(L) of such Act, as those limits would oth-*  
15 *erwise be in effect on September 30, 1999.*

16 **SEC. 5344. PAYMENT BASED ON LOCATION WHERE HOME**  
17 **HEALTH SERVICE IS FURNISHED.**

18       (a) *CONDITIONS OF PARTICIPATION.*—*Section 1891*  
19 *(42 U.S.C. 1395bbb) is amended by adding at the end the*  
20 *following:*

21       “(g) *PAYMENT ON BASIS OF LOCATION OF SERVICE.*—  
22 *A home health agency shall submit claims for payment for*  
23 *home health services under this title only on the basis of*  
24 *the geographic location at which the service is furnished,*  
25 *as determined by the Secretary.”.*

1       (b) *WAGE ADJUSTMENT.*—Section 1861(v)(1)(L)(iii)  
2 (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking  
3 “agency is located” and inserting “service is furnished”.

4       (c) *EFFECTIVE DATE.*—The amendments made by this  
5 section apply to cost reporting periods beginning on or after  
6 October 1, 1997.

## 7                   **PART II—HOME HEALTH BENEFITS**

### 8 **SEC. 5361. MODIFICATION OF PART A HOME HEALTH BENE-** 9                   **FIT FOR INDIVIDUALS ENROLLED UNDER** 10                   **PART B.**

11       (a) *IN GENERAL.*—Section 1812 (42 U.S.C. 1395d) is  
12 amended—

13               (1) in subsection (a)(3), by striking “home health  
14 services” and inserting “for individuals not enrolled  
15 in part B, home health services, and for individuals  
16 so enrolled, part A home health services (as defined in  
17 subsection (g))”;

18               (2) by redesignating subsection (g) as subsection  
19 (h); and

20               (3) by inserting after subsection (f) the following  
21 new subsection:

22               “(g)(1) For purposes of this section, the term ‘part A  
23 home health services’ means—

24                   “(A) for services furnished during each year be-  
25 ginning with 1998 and ending with 2003, home

1 *health services subject to the transition reduction ap-*  
2 *plied under paragraph (2)(C) for services furnished*  
3 *during the year, and*

4 *“(B) for services furnished on or after January*  
5 *1, 2004, post-institutional home health services for up*  
6 *to 100 visits during a home health spell of illness.*

7 *“(2) For purposes of paragraph (1)(A), the Secretary*  
8 *shall specify, before the beginning of each year beginning*  
9 *with 1998 and ending with 2003, a transition reduction*  
10 *in the home health services benefit under this part as fol-*  
11 *lows:*

12 *“(A) The Secretary first shall estimate the*  
13 *amount of payments that would have been made*  
14 *under this part for home health services furnished*  
15 *during the year if—*

16 *“(i) part A home health services were all*  
17 *home health services, and*

18 *“(ii) part A home health services were lim-*  
19 *ited to services described in paragraph (1)(B).*

20 *“(B)(i) The Secretary next shall compute a*  
21 *transfer reduction amount equal to the appropriate*  
22 *proportion (specified under clause (ii)) of the amount*  
23 *by which the amount estimated under subparagraph*  
24 *(A)(i) for the year exceeds the amount estimated*  
25 *under subparagraph (A)(ii) for the year.*

1           “(ii) For purposes of clause (i), the ‘appropriate  
2           proportion’ is equal to—

3                   “(I)  $\frac{1}{7}$  for 1998,

4                   “(II)  $\frac{2}{7}$  for 1999,

5                   “(III)  $\frac{3}{7}$  for 2000,

6                   “(IV)  $\frac{4}{7}$  for 2001,

7                   “(V)  $\frac{5}{7}$  for 2002, and

8                   “(VI)  $\frac{6}{7}$  for 2003.

9           “(C) The Secretary shall establish a transition  
10           reduction by specifying such a visit limit (during a  
11           home health spell of illness) or such a post-institu-  
12           tional limitation on home health services furnished  
13           under this part during the year as the Secretary esti-  
14           mates will result in a reduction in the amount of  
15           payments that would otherwise be made under this  
16           part for home health services furnished during the  
17           year equal to the transfer amount computed under  
18           subparagraph (B)(i) for the year.

19           “(3) Payment under this part for home health services  
20           furnished an individual enrolled under part B—

21                   “(A) during a year beginning with 1998 and  
22                   ending with 2003, may not be made for services that  
23                   are not within the visit limit or other limitation spec-  
24                   ified by the Secretary under the transition reduction



1        *pital extended care services if such home health serv-*  
2        *ices were initiated within 14 days after the date of*  
3        *such discharge.*

4        “(2) *The term ‘home health spell of illness’ with respect*  
5        *to any individual means a period of consecutive days—*

6                “(A) *beginning with the first day (not included*  
7                *in a previous home health spell of illness) (i) on*  
8                *which such individual is furnished post-institutional*  
9                *home health services, and (ii) which occurs in a*  
10               *month for which the individual is entitled to benefits*  
11               *under part A, and*

12               “(B) *ending with the close of the first period of*  
13               *60 consecutive days thereafter on each of which the*  
14               *individual is neither an inpatient of a hospital or*  
15               *rural primary care hospital nor an inpatient of a fa-*  
16               *cility described in section 1819(a)(1) or subsection*  
17               *(y)(1) nor provided home health services.”.*

18        (c) *MAINTAINING APPEAL RIGHTS FOR HOME HEALTH*  
19        *SERVICES.—Section 1869(b)(2)(B) (42 U.S.C.*  
20        *1395ff(b)(2)(B)) is amended by inserting “(or \$100 in the*  
21        *case of home health services)” after “\$500”.*

22        (d) *MAINTAINING SEAMLESS ADMINISTRATION*  
23        *THROUGH FISCAL INTERMEDIARIES.—Section 1842(b)(2)*  
24        *(42 U.S.C. 1395u(b)(2)) is amended by adding at the end*  
25        *the following:*

1       “(E) With respect to the payment of claims for home  
2 health services under this part that, but for the amendments  
3 made by section 5361, would be payable under part A in-  
4 stead of under this part, the Secretary shall continue ad-  
5 ministration of such claims through fiscal intermediaries  
6 under section 1816.”.

7       (e) *EFFECTIVE DATE.*—The amendments made by this  
8 section apply to services furnished on or after January 1,  
9 1998. For the purpose of applying such amendments, any  
10 home health spell of illness that began, but did not end,  
11 before such date shall be considered to have begun as of such  
12 date.

13 **SEC. 5362. IMPOSITION OF \$5 COPAYMENT FOR PART B**  
14 **HOME HEALTH SERVICES.**

15       (a) *IN GENERAL.*—Section 1833(a)(2)(A) (42 U.S.C.  
16 1395l(a)(2)(A)) (as amended by section 5343(c)(2)) is  
17 amended by striking “1895” and inserting “1895, less a  
18 copayment amount equal to \$5 per visit, not to exceed a  
19 total annual copayment amount equal to the inpatient hos-  
20 pital deductible determined under section 1813 for the cal-  
21 endar year in which such service is furnished”.

22       (b) *PROVIDER CHARGES.*—Section 1866(a)(2)(A)(i)  
23 (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

1           (1) by striking “deduction or coinsurance” and  
2           inserting “deduction, coinsurance, or copayment”;  
3           and

4           (2) by striking “section 1833(b)” and inserting  
5           “subsection (a)(2)(A) or (b) of section 1833”.

6           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
7 *section shall apply to services furnished on or after October*  
8 *1, 1997.*

9   **SEC. 5363. CLARIFICATION OF PART-TIME OR INTERMIT-**  
10                           **TENT NURSING CARE.**

11           (a) *IN GENERAL.*—*Section 1861(m) (42 U.S.C.*  
12 *1395x(m)) is amended by adding at the end the following:*  
13 *“For purposes of paragraphs (1) and (4), the term ‘part-*  
14 *time or intermittent services’ means skilled nursing and*  
15 *home health aide services furnished any number of days per*  
16 *week as long as they are furnished (combined) less than 8*  
17 *hours each day and 28 or fewer hours each week (or, subject*  
18 *to review on a case-by-case basis as to the need for care,*  
19 *less than 8 hours each day and 35 or fewer hours per week).*  
20 *For purposes of sections 1814(a)(2)(C) and 1835(a)(2)(A),*  
21 *‘intermittent’ means skilled nursing care that is either pro-*  
22 *vided or needed on fewer than 7 days each week, or less*  
23 *than 8 hours of each day for periods of 21 days or less (with*  
24 *extensions in exceptional circumstances when the need for*  
25 *additional care is finite and predictable).”.*

1           (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
2 *section (a) applies to services furnished on or after October*  
3 *1, 1997.*

4 **SEC. 5364. STUDY ON DEFINITION OF HOMEBOUND.**

5           (a) *STUDY.*—*The Secretary of Health and Human*  
6 *Services shall conduct a study of the criteria that should*  
7 *be applied, and the method of applying such criteria, in*  
8 *the determination of whether an individual is homebound*  
9 *for purposes of qualifying for receipt of benefits for home*  
10 *health services under the medicare program. Such criteria*  
11 *shall include the extent and circumstances under which a*  
12 *person may be absent from the home but nonetheless qualify.*

13           (b) *REPORT.*—*Not later than October 1, 1998, the Sec-*  
14 *retary shall submit a report to the Congress on the study*  
15 *conducted under subsection (a). The report shall include*  
16 *specific recommendations on such criteria and methods.*

17 **SEC. 5365. NORMATIVE STANDARDS FOR HOME HEALTH**  
18 **CLAIMS DENIALS.**

19           (a) *IN GENERAL.*—*Section 1862(a)(1) (42 U.S.C.*  
20 *1395y(a)(1)), as amended by section 5102(c), is amended—*

21                   (1) *by striking “and” at the end of subpara-*  
22 *graph (F),*

23                   (2) *by striking the semicolon at the end of sub-*  
24 *paragraph (G) and inserting “, and”, and*





1           “(XIII) for calendar year 1998 for hospitals in  
2           all areas, the market basket percentage increase minus  
3           2.5 percentage points,

4           “(XIV) for calendar year 1999 for hospitals in  
5           all areas, the market basket percentage increase minus  
6           1.3 percentage points,

7           “(XV) for calendar years 2000 through 2002 for  
8           hospitals in all areas, the market basket percentage  
9           increase minus 1.0 percentage points, and

10           “(XVI) for calendar year 2003 and each subse-  
11           quent calendar year for hospitals in all areas, the  
12           market basket percentage increase.”.

13           (b) *RULE OF CONSTRUCTION.*—Section 1886 (42  
14           U.S.C. 1395ww) is amended by adding at the end the fol-  
15           lowing new subsection:

16           “(j) *PPS CALENDAR YEAR PAYMENTS.*—Notwith-  
17           standing any other provision of this title, any updates or  
18           payment amounts determined under this section shall on  
19           and after December 31, 1998, take effect and be applied on  
20           a calendar year basis. With respect to any cost reporting  
21           periods that relate to any such updates or payment  
22           amounts, the Secretary shall revise such cost reporting peri-  
23           ods to ensure that on and after December 31, 1998, such  
24           cost reporting periods relate to updates and payment  
25           amounts made under this section on a calendar year basis

1 *in the same manner as such cost reporting periods applied*  
2 *to updates and payment amounts under this section on the*  
3 *day before the date of enactment of this subsection.”.*

4 **SEC. 5402. CAPITAL PAYMENTS FOR PPS HOSPITALS.**

5       (a) *MAINTAINING SAVINGS FROM TEMPORARY REDUC-*  
6 *TION IN PPS CAPITAL RATES.—Section 1886(g)(1)(A) (42*  
7 *U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end*  
8 *the following: “In addition to the reduction described in the*  
9 *preceding sentence, for discharges occurring on or after Oc-*  
10 *tober 1, 1997, the Secretary shall apply the budget neutral-*  
11 *ity adjustment factor used to determine the Federal capital*  
12 *payment rate in effect on September 30, 1995 (as described*  
13 *in section 412.352 of title 42 of the Code of Federal Regula-*  
14 *tions), to (i) the unadjusted standard Federal capital pay-*  
15 *ment rate (as described in section 412.308(c) of that title,*  
16 *as in effect on September 30, 1997), and (ii) the unadjusted*  
17 *hospital-specific rate (as described in section 412.328(e)(1)*  
18 *of that title, as in effect on September 30, 1997).”.*

19       (b) *SYSTEM EXCEPTION PAYMENTS FOR TRANSI-*  
20 *TIONAL CAPITAL.—*

21               (1) *IN GENERAL.—Section 1886(g)(l) (42 U.S.C.*  
22 *1395ww(g)(1)) is amended—*

23                       (A) *by redesignating subparagraph (C) as*  
24 *subparagraph (F), and*

1           (B) by inserting after subparagraph (B) the  
2 following:

3           “(C) The exceptions under the system pro-  
4 vided by the Secretary under subparagraph  
5 (B)(iii) shall include the provision of exception  
6 payments under the special exceptions process  
7 provided under section 412.348(g) of title 42,  
8 Code of Federal Regulations (as in effect on Sep-  
9 tember 1, 1995), except that the Secretary shall  
10 revise such process, effective for discharges occur-  
11 ring after September 30, 1997, as follows:

12           “(i) Eligible hospital requirements, as  
13 described in section 412.348(g)(1) of title  
14 42, Code of Federal Regulations, shall apply  
15 except that subparagraph (ii) shall be re-  
16 vised to require that hospitals located in an  
17 urban area with at least 300 beds shall be  
18 eligible under such process and that such a  
19 hospital shall be eligible without regard to  
20 its disproportionate patient percentage  
21 under subsection (d)(5)(F) or whether it  
22 qualifies for additional payment amounts  
23 under such subsection.

24           “(ii) Project size requirements, as de-  
25 scribed in section 412.348(g)(5) of title 42,

1           *Code of Federal Regulations, shall apply ex-*  
2           *cept that subparagraph (ii) shall be revised*  
3           *to require that the project costs of a hospital*  
4           *are at least 150 percent of its operating cost*  
5           *during the first 12 month cost reporting pe-*  
6           *riod beginning on or after October 1, 1991.*

7           *“(iii) The minimum payment level for*  
8           *qualifying hospitals shall be 85 percent.*

9           *“(iv) A hospital shall be considered to*  
10          *meet the requirement that it complete the*  
11          *project involved no later than the end of the*  
12          *last cost reporting period of the hospital be-*  
13          *ginning before October 1, 2001, if—*

14                 *“(I) the hospital has obtained a*  
15                 *certificate of need for the project ap-*  
16                 *proved by the State or a local planning*  
17                 *authority by September 1, 1995; and*

18                 *“(II) by September 1, 1995, the*  
19                 *hospital has expended on the project at*  
20                 *least \$750,000 or 10 percent of the esti-*  
21                 *mated cost of the project.*

22           *“(v) Offsetting amounts, as described*  
23           *in section 412.348(g)(8)(ii) of title 42, Code*  
24           *of Federal Regulations, shall apply except*  
25           *that subparagraph (B) of such section shall*

1           *be revised to require that the additional*  
2           *payment that would otherwise be payable*  
3           *for the cost reporting period shall be re-*  
4           *duced by the amount (if any) by which the*  
5           *hospital's current year medicare capital*  
6           *payments (excluding, if applicable, 75 per-*  
7           *cent of the hospital's capital-related dis-*  
8           *proportionate share payments) exceeds its*  
9           *medicare capital costs for such year.*

10           *“(D)(i) The Secretary shall reduce the Fed-*  
11           *eral capital and hospital rates up to \$50,000,000*  
12           *for a calendar year to ensure that the applica-*  
13           *tion of subparagraph (C) does not result in an*  
14           *increase in the total amount that would have*  
15           *been paid under this subsection in the fiscal year*  
16           *if such subparagraph did not apply.*

17           *“(i) Payments made pursuant to the appli-*  
18           *cation of subparagraph (C) shall not be consid-*  
19           *ered for purposes of calculating total estimated*  
20           *payments under section 412.348(h), title 42,*  
21           *Code of Federal Regulations.*

22           *“(E) The Secretary shall provide for publi-*  
23           *cation in the Federal Register each year (begin-*  
24           *ning with 1999) of a description of the distribu-*  
25           *tional impact of the application of subparagraph*



1           (b) *NO EFFECT OF PAYMENT REDUCTION ON EXCEP-*  
2 *TIONS AND ADJUSTMENTS.*—Section 1886(b)(4)(A)(ii) (42  
3 *U.S.C. 1395ww(b)(4)(A)(ii)*) is amended by adding at the  
4 end the following new sentence: “In making such reductions,  
5 the Secretary shall treat the applicable update factor de-  
6 scribed in paragraph (3)(B)(vi) for a fiscal year as being  
7 equal to the market basket percentage for that year.”.

8 **SEC. 5422. REDUCTIONS TO CAPITAL PAYMENTS FOR CER-**  
9 **TAIN PPS-EXEMPT HOSPITALS AND UNITS.**

10           Section 1886(g) (42 *U.S.C. 1395ww(g)*) is amended by  
11 adding at the end the following new paragraph:

12           “(4) In determining the amount of the payments that  
13 are attributable to portions of cost reporting periods occur-  
14 ring during fiscal years 1998 through 2002 and that may  
15 be made under this title with respect to capital-related costs  
16 of inpatient hospital services of a hospital which is de-  
17 scribed in clause (i), (ii), or (iv) of subsection (d)(1)(B)  
18 or a unit described in the matter after clause (v) of such  
19 subsection, the Secretary shall reduce the amounts of such  
20 payments otherwise determined under this title by 15 per-  
21 cent.”.

22 **SEC. 5423. CAP ON TEFRA LIMITS.**

23           Section 1886(b)(3) (42 *U.S.C. 1395ww(b)(3)*) is  
24 amended—

1           (1) *in subparagraph (A) by striking “subpara-*  
2           *graphs (C), (D), and (E)” and inserting “subpara-*  
3           *graph (C) and succeeding subparagraphs”, and*

4           (2) *by adding at the end the following:*

5           “(F)(i) *Except as provided in clause (ii), in the case*  
6           *of a hospital or unit that is within a class of hospital de-*  
7           *scribed in clause (iii), for cost reporting periods beginning*  
8           *on or after October 1, 1997, and before October 1, 2002,*  
9           *such target amount may not be greater than the 75th per-*  
10           *centile of the target amounts for such hospitals within such*  
11           *class for cost reporting periods beginning during that fiscal*  
12           *year (determined without regard to clause (ii)).*

13           “(ii) *In the case of a hospital or unit—*

14           “(I) *that is within a class of hospital described*  
15           *in clause (iii); and*

16           “(II) *whose operating costs of inpatient hospital*  
17           *services recognized under this title for the most recent*  
18           *cost reporting period for which information is avail-*  
19           *able are less than the target amount for the hospital*  
20           *or unit under clause (i) (determined without regard*  
21           *to this clause) for its cost reporting period beginning*  
22           *on or after October 1, 1997, and before October 1,*  
23           *1998,*

24           *clause (i) shall be applied for cost reporting periods begin-*  
25           *ning on or after October 1, 1997, and before October 1,*

1 2002, by substituting for the dollar limit on the target  
2 amounts established under such clause for such period a dol-  
3 lar limit that is equal to the greater of 90 percent of such  
4 dollar limit or the operating costs of the hospital or unit  
5 determined under subclause (II).

6 “(iii) For purposes of this subparagraph, each of the  
7 following shall be treated as a separate class of hospital:

8 “(I) Hospitals described in clause (i) of sub-  
9 section (d)(1)(B) and psychiatric units described in  
10 the matter following clause (v) of such subsection.

11 “(II) Hospitals described in clause (ii) of such  
12 subsection and rehabilitation units described in the  
13 matter following clause (v) of such subsection.

14 “(III) Hospitals described in clause (iv) of such  
15 subsection.”.

16 **SEC. 5424. CHANGE IN BONUS AND RELIEF PAYMENTS.**

17 (a) **CHANGE IN BONUS PAYMENT.**—Section  
18 1886(b)(1)(A) (42 U.S.C. 1395ww(b)(1)(A)) is amended by  
19 striking all that follows “plus—” and inserting the follow-  
20 ing:

21 “(i) in the case of a hospital with a  
22 target amount that is less than 135 percent  
23 of the median of the target amounts for hos-  
24 pitals in the same class of hospital, the less-  
25 er of 40 percent of the amount by which the

1           *target amount exceeds the amount of the op-*  
2           *erating costs or 4 percent of the target*  
3           *amount;*

4           “(ii) *in the case of a hospital with a*  
5           *target amount that equals or exceeds 135 of*  
6           *such median but is less than 150 percent of*  
7           *such median, the lesser of 30 percent of the*  
8           *amount by which the target amount exceeds*  
9           *the amount of the operating costs or 3 per-*  
10          *cent of the target amount; and*

11          “(iii) *in the case of a hospital with a*  
12          *target amount that equals or exceeds 150 of*  
13          *such median, the lesser of 20 percent of the*  
14          *amount by which the target amount exceeds*  
15          *the amount of the operating costs or 2 per-*  
16          *cent of the target amount; or”.*

17          (b) *CHANGE IN RELIEF PAYMENTS.—Section*  
18          *1886(b)(1) (42 U.S.C. 1395ww(b)(1)) is amended—*

19                 *(1) in subparagraph (B)—*

20                         *(A) by striking “greater than the target*  
21                         *amount” and inserting “greater than 110 per-*  
22                         *cent of the target amount”,*

23                         *(B) by striking “exceed the target amount”*  
24                         *and inserting “exceed 110 percent of the target*  
25                         *amount”,*

1           (C) by striking “10 percent” and inserting  
2           “20 percent”, and

3           (D) by redesignating such subparagraph as  
4           subparagraph (C); and

5           (2) by inserting after subparagraph (A) the fol-  
6           lowing new subparagraph:

7           “(B) are greater than the target amount but do  
8           not exceed 110 percent of the target amount, the  
9           amount of the payment with respect to those operat-  
10          ing costs payable under part A on a per discharge  
11          basis shall equal the target amount; or”.

12 **SEC. 5425. TARGET AMOUNTS FOR REHABILITATION HOS-**  
13 **PITALS, LONG-TERM CARE HOSPITALS, AND**  
14 **PSYCHIATRIC HOSPITALS.**

15          Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is  
16 amended—

17           (1) in subparagraph (A), in the matter preceding  
18           clause (i), by striking “and (E)” and inserting “(E),  
19           (F), and (G)”; and

20           (2) by adding at the end the following new sub-  
21           paragraphs:

22           “(F) In the case of a rehabilitation hospital (or unit  
23           thereof) (as described in clause (ii) of subsection (d)(1)(B)),  
24           for cost reporting periods beginning on or after October 1,  
25           1997—

1           “(i) in the case of a hospital which first receives  
2           payments under this section before October 1, 1997,  
3           the target amount determined under subparagraph  
4           (A) for such hospital or unit for a cost reporting pe-  
5           riod beginning during a fiscal year shall not be less  
6           than 50 percent of the national mean of the target  
7           amounts determined under such subparagraph for all  
8           such hospitals for cost reporting periods beginning  
9           during such fiscal year (determined without regard to  
10          this subparagraph); and

11           “(ii) in the case of a hospital which first receives  
12          payments under this section on or after October 1,  
13          1997, such target amount may not be greater than  
14          110 percent of the national mean of the target  
15          amounts for such hospitals (and units thereof) for cost  
16          reporting periods beginning during fiscal year 1991.

17          “(G) In the case of a hospital which has an average  
18          inpatient length of stay of greater than 25 days (as de-  
19          scribed in clause (iv) of subsection (d)(1)(B)), for cost re-  
20          porting periods beginning on or after October 1, 1997—

21           “(i) in the case of a hospital which first receives  
22          payments under this section as a hospital that is not  
23          a subsection (d) hospital or a subsection (d) Puerto  
24          Rico hospital before October 1, 1997, the target  
25          amount determined under subparagraph (A) for such

1        *hospital for a cost reporting period beginning during*  
2        *a fiscal year shall not be less than 50 percent of the*  
3        *national mean of the target amounts determined*  
4        *under such subparagraph for all such hospitals for*  
5        *cost reporting periods beginning during such fiscal*  
6        *year (determined without regard to this subpara-*  
7        *graph); and*

8                *“(ii) in the case of any other hospital which first*  
9        *receives payment under this section on or after Octo-*  
10        *ber 1, 1997, such target amount may not be greater*  
11        *than 110 percent of such national mean of the target*  
12        *amounts for such hospitals for cost reporting periods*  
13        *beginning during fiscal year 1991.*

14                *“(H) In the case of a psychiatric hospital (as defined*  
15        *in section 1861(f)), for cost reporting periods beginning on*  
16        *or after October 1, 1997—*

17                *“(i) in the case of a hospital which first receives*  
18        *payments under this section before October 1, 1997,*  
19        *the target amount determined under subparagraph*  
20        *(A) for such hospital for a cost reporting period be-*  
21        *ginning during a fiscal year shall not be less than 50*  
22        *percent of the national mean of the target amounts*  
23        *determined under such subparagraph for all such hos-*  
24        *pitals for cost reporting periods beginning during*

1        *such fiscal year (determined without regard to this*  
2        *subparagraph); and*

3            *“(i) in the case of any other hospital which first*  
4        *receives payment under this section on or after Octo-*  
5        *ber 1, 1997, such target amount may not be greater*  
6        *than 110 percent of such national mean of the target*  
7        *amounts for such hospitals for cost reporting periods*  
8        *beginning during fiscal year 1991.”.*

9        **SEC. 5426. TREATMENT OF CERTAIN LONG-TERM CARE HOS-**  
10            **PITALS LOCATED WITHIN OTHER HOSPITALS.**

11        *(a) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C.*  
12        *1395ww(d)(1)(B)) is amended by adding at the end the fol-*  
13        *lowing new sentence: “A hospital that was classified by the*  
14        *Secretary on or before September 30, 1995, as a hospital*  
15        *described in clause (iv) shall continue to be so classified*  
16        *notwithstanding that it is located in the same building as,*  
17        *or on the same campus as, another hospital.”.*

18        *(b) EFFECTIVE DATE.—The amendment made by sub-*  
19        *section (a) shall apply to discharges occurring on or after*  
20        *October 1, 1995.*

21        **SEC. 5426A. REBASING.**

22        *Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as*  
23        *amended by section 5423, is amended by adding at the end*  
24        *the following:*

1           “(G)(i) *In the case of a hospital (or unit de-*  
2 *scribed in the matter following clause (v) of sub-*  
3 *section (d)(1)(B)) that received payment under*  
4 *this subsection for inpatient hospital services fur-*  
5 *nished before January 1, 1990, that is within a*  
6 *class of hospital described in clause (iii), and*  
7 *that elects (in a form and manner determined by*  
8 *the Secretary) this subparagraph to apply to the*  
9 *hospital, the target amount for the hospital’s 12-*  
10 *month cost reporting period beginning during*  
11 *fiscal year 1998 is equal to the average described*  
12 *in clause (ii).*

13           “(ii) *The average described in this clause*  
14 *for a hospital or unit shall be determined by the*  
15 *Secretary as follows:*

16           “(I) *The Secretary shall determine the*  
17 *allowable operating costs for inpatient hos-*  
18 *pital services for the hospital or unit for*  
19 *each of the 5 cost reporting periods for*  
20 *which the Secretary has the most recent set-*  
21 *tled cost reports as of the date of the enact-*  
22 *ment of this subparagraph.*

23           “(II) *The Secretary shall increase the*  
24 *amount determined under subclause (I) for*  
25 *each cost reporting period by the applicable*

1            *percentage increase under subparagraph*  
2            *(B)(ii) for each subsequent cost reporting*  
3            *period up to the cost reporting period de-*  
4            *scribed in clause (i).*

5            *“(III) The Secretary shall identify*  
6            *among such 5 cost reporting periods the cost*  
7            *reporting periods for which the amount de-*  
8            *termined under subclause (II) is the highest,*  
9            *and the lowest.*

10           *“(IV) The Secretary shall compute the*  
11           *averages of the amounts determined under*  
12           *subclause (II) for the 3 cost reporting peri-*  
13           *ods not identified under subclause (III).*

14           *“(iii) For purposes of this subparagraph,*  
15           *each of the following shall be treated as a sepa-*  
16           *rate class of hospital:*

17           *“(I) Hospitals described in clause (i) of*  
18           *subsection (d)(1)(B) and psychiatric units*  
19           *described in the matter following clause (v)*  
20           *of such subsection.*

21           *“(II) Hospitals described in clause (ii)*  
22           *of such subsection and rehabilitation units*  
23           *described in the matter following clause (v)*  
24           *of such subsection.*

1                   “(III) Hospitals described in clause  
2                   (iii) of such subsection.

3                   “(IV) Hospitals described in clause (iv)  
4                   of such subsection.

5                   “(V) Hospitals described in clause (v)  
6                   of such subsection.”.

7 **SEC. 5427. ELIMINATION OF EXEMPTIONS; REPORT ON EX-**  
8 **CEPTIONS AND ADJUSTMENTS.**

9                   (a) *ELIMINATION OF EXEMPTIONS.*—

10                   (1) *IN GENERAL.*—Section 1886(b)(4)(A)(i) (42  
11                   U.S.C. 1395ww(b)(4)(A)(i)) is amended by striking  
12                   “exemption from, or an exception and adjustment to,”  
13                   and inserting “an exception and adjustment to” each  
14                   place it appears.

15                   (2) *EFFECTIVE DATE.*—The amendments made  
16                   by paragraph (1) shall apply to hospitals that first  
17                   qualify as a hospital described in clause (i), (ii), or  
18                   (iv) of section 1886(d)(1)(B) (42 U.S.C.  
19                   1395ww(d)(1)(B)) on or after October 1, 1997.

20                   (b) *REPORT.*—The Secretary of Health and Human  
21                   Services shall publish annually in the Federal Register a  
22                   report describing the total amount of payments made to  
23                   hospitals by reason of section 1886(b)(4) of the Social Secu-  
24                   rity Act (42 U.S.C. 1395ww(b)(4)), as amended by sub-

1 *section (a), for cost reporting periods ending during the pre-*  
2 *vious fiscal year.*

3 **SEC. 5428. TECHNICAL CORRECTION RELATING TO SUB-**  
4 **SECTION (d) HOSPITALS.**

5 (a) *IN GENERAL.*—*Section 1886(d)(1) (42 U.S.C.*  
6 *1395ww(d)(1)) is amended—*

7 (1) *in subparagraph (B)(v)—*

8 (A) *by inserting “(I)” after “(v)”;* and

9 (B) *by striking the semicolon at the end and*  
10 *inserting “, or”;* and

11 (C) *by adding at the end the following:*

12 “(II) *a hospital that—*

13 “(aa) *was recognized as a comprehensive*  
14 *cancer center or clinical cancer research center*  
15 *by the National Cancer Institute of the National*  
16 *Institutes of Health as of April 20, 1983, or is*  
17 *able to demonstrate, for any six-month period,*  
18 *that at least 50 percent of its total discharges*  
19 *have a principal diagnosis that reflects a finding*  
20 *of neoplastic disease, as defined in subparagraph*  
21 *(E);*

22 “(bb) *applied on or before December 31,*  
23 *1990, for classification as a hospital involved ex-*  
24 *tensively in treatment for or research on cancer*  
25 *under this clause (as in effect on the day before*

1           the date of the enactment of this subclause), but  
2           was not approved for such classification; and

3                   “(cc) is located in a State which, as of De-  
4           cember 19, 1989, was not operating a demonstra-  
5           tion project under section 1814(b);” and

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

7           “(E) For purposes of subparagraph (B)(v)(II)(aa), the  
8           term ‘principal diagnosis that reflects a finding of neo-  
9           plastic disease’ means the condition established after study  
10          to be chiefly responsible for occasioning the admission of  
11          a patient to a hospital, except that only discharges with  
12          ICD–9–CM principal diagnosis codes of 140 through 239,  
13          V58.0, V58.1, V66.1, V66.2, or 990 will be considered to re-  
14          flect such a principal diagnosis.”.

15          (b) *PAYMENTS.*—Any classification by reason of sec-  
16          tion 1886(d)(1)(B)(v)(II) of the Social Security Act (42  
17          U.S.C. 1395ww(d)(1)(B)(v)(II)) (as added by subsection  
18          (a)) shall apply to all cost reporting periods beginning on  
19          or after January 1, 1991. Any payments owed to a hospital  
20          as a result of such section (as so amended) shall be made  
21          expeditiously, but in no event later than 1 year after the  
22          date of enactment of this Act.

23          **SEC. 5429. CERTAIN CANCER HOSPITALS.**

24          (a) *IN GENERAL.*—Section 1886(d)(1) (42 U.S.C.  
25          1395ww(d)(1)), as amended by section 5428, is amended—

1           (1) *in subparagraph (B)(v), by striking the*  
2           *semicolon at the end of subclause (II)(cc) and insert-*  
3           *ing the following: “, or”, and by adding at the end*  
4           *the following:*

5           “*(III) a hospital—*

6           “*(aa) that was classified under subsection*  
7           *(iv) beginning on or before December 31, 1990,*  
8           *and through December 31, 1995; and*

9           “*(bb) throughout the period described in*  
10           *item (aa) and currently has greater than 49 per-*  
11           *cent of its total patient discharges with a prin-*  
12           *cipal diagnosis that reflects a finding of neo-*  
13           *plastic disease;”*; and

14           (2) *by adding at the end the following:*

15           “*(F) In the case of a hospital that is classified under*  
16           *subparagraph (B)(v)(III), no rebasing is permitted by such*  
17           *hospital and such hospital shall use the base period in effect*  
18           *at the time of such hospital’s December 31, 1995, cost re-*  
19           *port.”*

1           **CHAPTER 3—GRADUATE MEDICAL**  
2                           **EDUCATION PAYMENTS**

3           **Subchapter A—Direct Medical Education**

4   **SEC. 5441. LIMITATION ON NUMBER OF RESIDENTS AND**  
5                           **ROLLING AVERAGE FTE COUNT.**

6           Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is  
7 amended by adding after subparagraph (E) the following:

8                           “(F) *LIMITATION ON NUMBER OF RESI-*  
9                           *DENTS IN ALLOPATHIC AND OSTEOPATHIC MEDI-*  
10                          *CINE.—Except as provided in subparagraph (H),*  
11                          *such rules shall provide that for purposes of a*  
12                          *cost reporting period beginning on or after Octo-*  
13                          *ber 1, 1997, the total number of full-time equiva-*  
14                          *lent residents before application of weighting fac-*  
15                          *tors (as determined under this paragraph) with*  
16                          *respect to a hospital’s approved medical resi-*  
17                          *dency training program in the fields of*  
18                          *allopathic medicine and osteopathic medicine*  
19                          *may not exceed the number of full-time equiva-*  
20                          *lent residents with respect to such programs for*  
21                          *the hospital’s most recent cost reporting period*  
22                          *ending on or before December 31, 1996.*

23                          “(G) *COUNTING INTERNS AND RESIDENTS*  
24                          *FOR 1998 AND SUBSEQUENT YEARS.—*

1           “(i) *IN GENERAL.*—*For cost reporting*  
2           *periods beginning on or after October 1,*  
3           *1997, subject to the limit described in sub-*  
4           *paragraph (F) and except as provided in*  
5           *subparagraph (H), the total number of full-*  
6           *time equivalent residents for determining a*  
7           *hospital’s graduate medical education pay-*  
8           *ment shall equal the average of the full-time*  
9           *equivalent resident counts for the cost re-*  
10           *porting period and the preceding two cost*  
11           *reporting periods.*

12           “(ii) *ADJUSTMENT FOR SHORT PERI-*  
13           *ODS.*—*If any cost reporting period begin-*  
14           *ning on or after October 1, 1997, is not*  
15           *equal to twelve months, the Secretary shall*  
16           *make appropriate modifications to ensure*  
17           *that the average full-time equivalent resi-*  
18           *dent counts pursuant to clause (i) are*  
19           *based on the equivalent of full twelve-month*  
20           *cost reporting periods.*

21           “(iii) *TRANSITION RULE FOR 1998.*—*In*  
22           *the case of a hospital’s first cost reporting*  
23           *period beginning on or after October 1,*  
24           *1997, clause (i) shall be applied by using*

1           *the average for such period and the preced-*  
2           *ing cost reporting period.*

3           “(H) *SPECIAL RULES FOR NEW FACILI-*  
4           *TIES.—*

5                   “(i) *IN GENERAL.—If a hospital is an*  
6           *applicable facility under clause (iii) for any*  
7           *year with respect to any approved medical*  
8           *residency training program described in*  
9           *subsection (h)—*

10                           “(I) *subject to the applicable an-*  
11           *nuual limit under clause (ii), the Sec-*  
12           *retary may provide an additional*  
13           *amount of full-time equivalent resi-*  
14           *dents which may be taken into account*  
15           *with respect to such program under*  
16           *subparagraph (F) for cost reporting*  
17           *periods beginning during such year,*  
18           *and*

19                           “(II) *the averaging rules under*  
20           *subparagraph (G) shall not apply for*  
21           *such year.*

22                           “(ii) *APPLICABLE ANNUAL LIMIT.—The*  
23           *total of additional full-time equivalent resi-*  
24           *dents which the Secretary may authorize*  
25           *under clause (i) for all applicable facilities*

1           for any year shall not exceed the amount  
2           which would result in the number of full-  
3           time equivalent residents with respect to ap-  
4           proved medical residency training programs  
5           in the fields of allopathic and osteopathic  
6           medicine for all hospitals exceeding such  
7           number for the preceding year. In allocating  
8           such additional residents, the Secretary  
9           shall give special consideration to facilities  
10          that meet the needs of underserved rural  
11          areas.

12           “(iii) *APPLICABLE FACILITY.*—For  
13          purposes of this subparagraph, a hospital  
14          shall be treated as an applicable facility  
15          with respect to an approved medical resi-  
16          dency training program only during the  
17          first 5 years during which such program is  
18          in existence. A hospital shall not be treated  
19          as such a facility if the 5-year period de-  
20          scribed in the preceding sentence ended on  
21          or before December 31, 1996.

22           “(iv) *COORDINATION WITH LIMIT.*—  
23          For purposes of applying subparagraph (F),  
24          the number of full-time equivalent residents  
25          of an applicable facility with respect to any

1           *approved medical residency training pro-*  
2           *gram in the fields of allopathic and osteo-*  
3           *pathic medicine for the facility’s most re-*  
4           *cent cost reporting period ending on or be-*  
5           *fore December 31, 1996, shall be increased*  
6           *by the number of such residents allocated to*  
7           *such facility under clause (i).”.*

8 **SEC. 5442. PERMITTING PAYMENT TO NONHOSPITAL PRO-**  
9           **VIDERS.**

10           *(a) IN GENERAL.—Section 1886 (42 U.S.C. 1395ww)*  
11 *is amended by adding at the end the following:*

12           “*(j) PAYMENT TO NONHOSPITAL PROVIDERS.—*

13                 “*(1) IN GENERAL.—For cost reporting periods*  
14           *beginning on or after October 1, 1997, the Secretary*  
15           *may establish rules for payment to qualified nonhos-*  
16           *pital providers for their direct costs of medical edu-*  
17           *cation, if those costs are incurred in the operation of*  
18           *an approved medical residency training program de-*  
19           *scribed in subsection (h). Such rules shall specify the*  
20           *amounts, form, and manner in which payments will*  
21           *be made and the portion of such payments that will*  
22           *be made from each of the trust funds under this title.*

23                 “*(2) QUALIFIED NONHOSPITAL PROVIDERS.—For*  
24           *purposes of this subsection, the term ‘qualified non-*  
25           *hospital providers’ means—*



1            *combined medical residency training pro-*  
2            *gram in which all of the individual pro-*  
3            *grams (that are combined) are for training*  
4            *a primary care resident (as defined in sub-*  
5            *paragraph (H)), the period of board eligi-*  
6            *bility shall be the minimum number of*  
7            *years of formal training required to satisfy*  
8            *the requirements for initial board eligibility*  
9            *in the longest of the individual programs*  
10           *plus one additional year.*

11                    *“(II) A resident enrolled in a combined*  
12                    *medical residency training program that*  
13                    *includes an obstetrics and gynecology pro-*  
14                    *gram qualifies for the period of board eligi-*  
15                    *bility under subclause (I) if the other pro-*  
16                    *grams such resident combines with such ob-*  
17                    *stetrics and gynecology program are for*  
18                    *training a primary care resident.”.*

19            *(b) EFFECTIVE DATE.—The amendments made by sub-*  
20            *section (a) apply to combined medical residency training*  
21            *programs in effect on or after January 1, 1998.*

1     ***Subchapter B—Indirect Medical Education***

2     ***SEC. 5446. INDIRECT GRADUATE MEDICAL EDUCATION PAY-***  
 3                     ***MENTS.***

4             ***(a) MULTIYEAR TRANSITION REGARDING PERCENT-***  
 5             ***AGES.—***

6                     ***(1) IN GENERAL.—****Section 1886(d)(5)(B)(ii) (42*  
 7                     *U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as*  
 8                     *follows:*

9                             *“(i) For purposes of clause (i)(II), the in-*  
 10                            *direct teaching adjustment factor is equal to*  
 11                             *$c \times (((1+r) \text{ to the } n\text{th power}) - 1)$ , where ‘r’*  
 12                            *is the ratio of the hospital’s full-time equivalent*  
 13                            *interns and residents to beds and ‘n’ equals .405.*  
 14                            *For discharges occurring—*

15                                     *“(I) on or after May 1, 1986, and be-*  
 16                                     *fore October 1, 1997, ‘c’ is equal to 1.89;*

17                                     *“(II) during fiscal year 1998, ‘c’ is*  
 18                                     *equal to 1.72;*

19                                     *“(III) during fiscal year 1999, ‘c’ is*  
 20                                     *equal to 1.6;*

21                                     *“(IV) during fiscal year 2000, ‘c’ is*  
 22                                     *equal to 1.47; and*

23                                     *“(V) on or after October 1, 2000, ‘c’ is*  
 24                                     *equal to 1.35.”.*

1           (2) *NO RESTANDARDIZATION OF PAYMENT*  
2 *AMOUNTS REQUIRED.*—Section 1886(d)(2)(C)(i) (42  
3 *U.S.C. 1395ww(d)(2)(C)(i)*) is amended by adding at  
4 *the end the following: “except that the Secretary shall*  
5 *not take into account any reduction in the amount of*  
6 *additional payments under paragraph (5)(B)(ii) re-*  
7 *sulting from the amendment made by section*  
8 *5446(a)(1) of the Balanced Budget Act of 1997,”.*

9 *(b) LIMITATION.*—

10           (1) *IN GENERAL.*—Section 1886(d)(5)(B) (42  
11 *U.S.C. 1395ww(d)(5)(B)*) is amended by adding after  
12 *clause (iv) the following:*

13           *“(v) In determining the adjustment with re-*  
14 *spect to a hospital for discharges occurring on or*  
15 *after October 1, 1997, the total number of full-*  
16 *time equivalent interns and residents in either a*  
17 *hospital or nonhospital setting may not exceed*  
18 *the number of such full-time equivalent interns*  
19 *and residents in the hospital with respect to the*  
20 *hospital’s most recent cost reporting period end-*  
21 *ing on or before December 31, 1996.*

22           *“(vi) For purposes of clause (ii)—*

23           *“(I) ‘r’ may not exceed the ratio of the*  
24 *number of interns and residents as deter-*  
25 *mined under clause (v) with respect to the*

1            *hospital for its most recent cost reporting*  
2            *period ending on or before December 31,*  
3            *1996, to the hospital's available beds (as de-*  
4            *finied by the Secretary) during that cost re-*  
5            *porting period, and*

6            *“(II) for the hospital's cost reporting*  
7            *periods beginning on or after October 1,*  
8            *1997, subject to the limits described in*  
9            *clauses (iv) and (v), the total number of*  
10           *full-time equivalent residents for payment*  
11           *purposes shall equal the average of the ac-*  
12           *tual full-time equivalent resident count for*  
13           *the cost reporting period and the preceding*  
14           *two cost reporting periods.*

15           *In the case of the first cost reporting period be-*  
16           *ginning on or after October 1, 1997, subclause*  
17           *(II) shall be applied by using the average for*  
18           *such period and the preceding cost reporting pe-*  
19           *riod.*

20           *“(vi)(I) If a hospital is an applicable facil-*  
21           *ity under subclause (III) for any year with re-*  
22           *spect to any approved medical residency train-*  
23           *ing program described in subsection (h)—*

24           *“(aa) subject to the applicable annual*  
25           *limit under subclause (II), the Secretary*

1            *may provide an additional amount of full-*  
2            *time equivalent interns and residents which*  
3            *may be taken into account with respect to*  
4            *such program under clauses (v) and (vi) for*  
5            *cost reporting periods beginning during*  
6            *such year, and*

7            *“(bb) the averaging rules under clause*  
8            *(vi)(II) shall not apply for such year.*

9            *“(II) The total of additional full-time equiv-*  
10          *alent interns and residents which the Secretary*  
11          *may authorize under subclause (I) for all appli-*  
12          *cable facilities for any year shall not exceed the*  
13          *amount which would result in the number of*  
14          *full-time equivalent interns or residents for all*  
15          *hospitals exceeding such number for the preced-*  
16          *ing year. In allocating such additional residents,*  
17          *the Secretary shall give special consideration to*  
18          *facilities that meet the needs of underserved rural*  
19          *areas.*

20          *“(III) For purposes of this clause, a hos-*  
21          *pital shall be treated as an applicable facility*  
22          *with respect to an approved medical residency*  
23          *training program only during the first 5 years*  
24          *during which such program is in existence. A*  
25          *hospital shall not be treated as such a facility if*

1           *the 5-year period described in the preceding sen-*  
2           *tence ended on or before December 31, 1996.*

3           “(IV) *For purposes of applying clause (v),*  
4           *the number of full-time equivalent residents of an*  
5           *applicable facility with respect to any approved*  
6           *medical residency training program for the fa-*  
7           *cility’s most recent cost reporting period ending*  
8           *on or before December 31, 1996, shall be in-*  
9           *creased by the number of such residents allocated*  
10          *to such facility under subclause (I).*

11          “(viii) *If any cost reporting period beginning on*  
12          *or after October 1, 1997, is not equal to twelve*  
13          *months, the Secretary shall make appropriate modi-*  
14          *fications to ensure that the average full-time equiva-*  
15          *lent residency count pursuant to subclause (II) of*  
16          *clause (vi) is based on the equivalent of full twelve-*  
17          *month cost reporting periods.”.*

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

22                 “(iv) *Effective for discharges occurring on or*  
23          *after October 1, 1997, all the time spent by an intern*  
24          *or resident in patient care activities under an ap-*  
25          *proved medical residency training program at an en-*

1        *tity in a nonhospital setting shall be counted towards*  
 2        *the determination of full-time equivalency if the hos-*  
 3        *pital incurs all, or substantially all, of the costs for*  
 4        *the training program in that setting.”.*

5        ***Subchapter C—Graduate Medical Education***  
 6        ***Payments for Managed Care Enrollees***

7        ***SEC. 5451. DIRECT AND INDIRECT MEDICAL EDUCATION***  
 8                    ***PAYMENTS TO HOSPITALS FOR MANAGED***  
 9                    ***CARE ENROLLEES.***

10        *(a) PAYMENTS TO HOSPITALS FOR DIRECT COSTS OF*  
 11        *GRADUATE MEDICAL EDUCATION.—Section 1886(h)(3) (42*  
 12        *U.S.C. 1395ww(h)(3)) is amended by adding after subpara-*  
 13        *graph (C) the following:*

14                    *“(D) PAYMENT FOR MEDICARE CHOICE EN-*  
 15                    *ROLLEES.—*

16                    *“(i) IN GENERAL.—For portions of cost*  
 17                    *reporting periods occurring on or after Jan-*  
 18                    *uary 1, 1998, the Secretary shall provide*  
 19                    *for an additional payment amount under*  
 20                    *this subsection for services furnished to in-*  
 21                    *dividuals who are enrolled under a risk-*  
 22                    *sharing contract with an eligible organiza-*  
 23                    *tion under section 1876 and who are enti-*  
 24                    *tled to part A or with a Medicare Choice or-*  
 25                    *ganization under part C. The amount of*

1           such a payment shall equal the applicable  
2           percentage of the product of—

3                   “(I) the aggregate approved  
4                   amount (as defined in subparagraph  
5                   (B)) for that period; and

6                   “(II) the fraction of the total  
7                   number of inpatient-bed days (as es-  
8                   tablished by the Secretary) during the  
9                   period which are attributable to such  
10                  enrolled individuals.

11                  “(ii) *APPLICABLE PERCENTAGE.*—For  
12                  purposes of clause (i), the applicable per-  
13                  centage is—

14                          “(I) 25 percent in 1998,

15                          “(II) 50 percent in 1999,

16                          “(III) 75 percent in 2000, and

17                          “(IV) 100 percent in 2001 and  
18                  subsequent years.

19                  “(iii) *SPECIAL RULE FOR HOSPITALS*  
20                  *UNDER REIMBURSEMENT SYSTEM.*—The  
21                  Secretary shall establish rules for the appli-  
22                  cation of this subparagraph to a hospital  
23                  reimbursed under a reimbursement system  
24                  authorized under section 1814(b)(3) in the  
25                  same manner as it would apply to the hos-

1                    *pital if it were not reimbursed under such*  
2                    *section.”.*

3            *(b) PAYMENT TO HOSPITALS OF INDIRECT MEDICAL*  
4 *EDUCATION COSTS.—Section 1886(d) (42 U.S.C.*  
5 *1395ww(d)) is amended by adding at the end the following:*

6                    *“(11) ADDITIONAL PAYMENTS FOR MANAGED*  
7 *CARE SAVINGS.—*

8                    *“(A) IN GENERAL.—For portions of cost re-*  
9 *porting periods occurring on or after January 1,*  
10 *1998, the Secretary shall provide for an addi-*  
11 *tional payment amount for each applicable dis-*  
12 *charge of any subsection (d) hospital (or any*  
13 *hospital reimbursed under a reimbursement sys-*  
14 *tem authorized under section 1814(b)(3)) that*  
15 *has an approved medical residency training pro-*  
16 *gram.*

17                    *“(B) APPLICABLE DISCHARGE.—For pur-*  
18 *poses of this paragraph, the term ‘applicable dis-*  
19 *charge’ means the discharge of any individual*  
20 *who is enrolled under a risk-sharing contract*  
21 *with an eligible organization under section 1876*  
22 *and who is entitled to benefits under part A or*  
23 *any individual who is enrolled with a Medicare*  
24 *Choice organization under part C.*

1           “(C) *DETERMINATION OF AMOUNT.*—*The*  
2           *amount of the payment under this paragraph*  
3           *with respect to any applicable discharge shall be*  
4           *equal to the applicable percentage (as defined in*  
5           *subsection (h)(3)(D)(ii)) of the estimated average*  
6           *per discharge amount that would otherwise have*  
7           *been paid under paragraph (1)(A) if the individ-*  
8           *uals had not been enrolled as described in sub-*  
9           *paragraph (B).”.*

10 **SEC. 5452. DEMONSTRATION PROJECT ON USE OF CONSOR-**  
11 **TIA.**

12           (a) *IN GENERAL.*—*The Secretary of Health and*  
13 *Human Services (in this section referred to as the “Sec-*  
14 *retary”)* shall establish a demonstration project under  
15 which, instead of making payments to teaching hospitals  
16 pursuant to section 1886(h) of the Social Security Act, the  
17 Secretary shall make payments under this section to each  
18 consortium that meets the requirements of subsection (b).

19           (b) *QUALIFYING CONSORTIA.*—*For purposes of sub-*  
20 *section (a), a consortium meets the requirements of this sub-*  
21 *section if the consortium is in compliance with the follow-*  
22 *ing:*

23                   (1) *The consortium consists of an approved med-*  
24 *ical residency training program in a teaching hos-*  
25 *pital and one or more of the following entities:*

1           (A) *A school of allopathic medicine or osteo-*  
2           *pathic medicine.*

3           (B) *Another teaching hospital, which may*  
4           *be a children's hospital.*

5           (C) *Another approved medical residency*  
6           *training program.*

7           (D) *A federally qualified health center.*

8           (E) *A medical group practice.*

9           (F) *A managed care entity.*

10          (G) *An entity furnishing outpatient serv-*  
11          *ices.*

12          (I) *Such other entity as the Secretary deter-*  
13          *mines to be appropriate.*

14          (2) *The members of the consortium have agreed*  
15          *to participate in the programs of graduate medical*  
16          *education that are operated by the entities in the con-*  
17          *sortium.*

18          (3) *With respect to the receipt by the consortium*  
19          *of payments made pursuant to this section, the mem-*  
20          *bers of the consortium have agreed on a method for*  
21          *allocating the payments among the members.*

22          (4) *The consortium meets such additional re-*  
23          *quirements as the Secretary may establish.*

24          (c) *AMOUNT AND SOURCE OF PAYMENT.—The total of*  
25          *payments to a qualifying consortium for a fiscal year pur-*

1 *suant to subsection (a) shall not exceed the amount that*  
 2 *would have been paid under section 1886(h) of the Social*  
 3 *Security Act for the teaching hospital (or hospitals) in the*  
 4 *consortium. Such payments shall be made in such propor-*  
 5 *tion from each of the trust funds established under title*  
 6 *XVIII of such Act as the Secretary specifies.*

7 **CHAPTER 4—OTHER HOSPITAL PAYMENTS**

8 **SEC. 5461. DISPROPORTIONATE SHARE PAYMENTS TO HOS-**  
 9 **PITALS FOR MANAGED CARE AND MEDICARE**  
 10 **CHOICE ENROLLEES.**

11 *Section 1886(d) (42 U.S.C. 1395ww(d)) (as amended*  
 12 *by section 5451) is amended by adding at the end the fol-*  
 13 *lowing:*

14 *“(12) ADDITIONAL PAYMENTS FOR MANAGED*  
 15 *CARE AND MEDICARE CHOICE SAVINGS.—*

16 *“(A) IN GENERAL.—For portions of cost re-*  
 17 *porting periods occurring on or after January 1,*  
 18 *1998, the Secretary shall provide for an addi-*  
 19 *tional payment amount for each applicable dis-*  
 20 *charge of—*

21 *(i) any subsection (d) hospital that is*  
 22 *a disproportionate share hospital (as de-*  
 23 *scribed in paragraph (5)(F)(i)); or*

24 *(ii) any hospital reimbursed under a*  
 25 *reimbursement system authorized under sec-*

1           tion 1814(b)(3)) if such hospital would  
2           qualify as a disproportionate share hospital  
3           were it not so reimbursed.

4           “(B) *APPLICABLE DISCHARGE.*—For pur-  
5           poses of this paragraph, the term ‘applicable dis-  
6           charge’ means the discharge of any individual  
7           who is enrolled under a risk-sharing contract  
8           with an eligible organization under section 1876  
9           and who is entitled to benefits under part A or  
10          any individual who is enrolled with a Medicare  
11          Choice organization under part C.

12          “(C) *DETERMINATION OF AMOUNT.*—The  
13          amount of the payment under this paragraph  
14          with respect to any applicable discharge shall be  
15          equal to the applicable percentage (as defined in  
16          subsection (h)(3)(D)(ii)) of the estimated average  
17          per discharge amount that would otherwise have  
18          been paid under paragraph (1)(A) if the individ-  
19          uals had not been enrolled as described in sub-  
20          paragraph (B).”.

21 **SEC. 5462. REFORM OF DISPROPORTIONATE SHARE PAY-**  
22 **MENTS TO HOSPITALS SERVING VULNERABLE**  
23 **POPULATIONS.**

24          (a) *IN GENERAL.*—Section 1886(d)(5)(F) of the Social  
25 *Security Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—*

1           (1) *in clause (i), by inserting “and before De-*  
2 *cember 31, 1998,” after “May, 1, 1986,”;*

3           (2) *in clause (ii), by striking “The amount” and*  
4 *inserting “Subject to clauses (ix) and (x), the*  
5 *amount”;* and

6           (3) *by adding at the end the following:*

7           “(ix) *In the case of discharges occurring on or*  
8 *after October 1, 1997, and before December 31, 1998,*  
9 *the additional payment amount otherwise determined*  
10 *under clause (ii) shall be reduced by 4 percent.*

11           “(x)(I) *In the case of discharges occurring dur-*  
12 *ing calendar years 1999 and succeeding calendar*  
13 *years, the additional payment amount shall be deter-*  
14 *mined in accordance with the formula established*  
15 *under subclause (II).*

16           “(II) *Not later than January 1, 1999, the Sec-*  
17 *retary shall establish a formula for determining addi-*  
18 *tional payment amounts under this subparagraph. In*  
19 *determining such formula the Secretary shall—*

20           “(aa) *establish a single threshold for costs*  
21 *incurred by hospitals in serving low-income pa-*  
22 *tients,*

23           “(bb) *consider the costs described in sub-*  
24 *clause (III), and*

1           “(cc) ensure that such formula complies  
2           with the requirement described in subclause (IV).

3           “(III) The costs described in this subclause are  
4           as follows:

5                   “(aa) The costs incurred by the hospital  
6                   during a period (as determined by the Secretary)  
7                   of furnishing inpatient and outpatient hospital  
8                   services to individuals who are entitled to bene-  
9                   fits under part A of this title and are entitled to  
10                  supplemental security income benefits under title  
11                  XVI (excluding any supplementation of those  
12                  benefits by a State under section 1616).

13                  “(bb) The costs incurred by the hospital  
14                  during a period (as so determined) of furnishing  
15                  inpatient and outpatient hospital services to in-  
16                  dividuals who are eligible for medical assistance  
17                  under the State plan under title XIX and are  
18                  not entitled to benefits under part A of this title  
19                  (including individuals enrolled in a health  
20                  maintenance organization (as defined in section  
21                  1903(m)(1)(A)) or any other managed care plan  
22                  under such title, individuals who are eligible for  
23                  medical assistance under such title pursuant to  
24                  a waiver approved by the Secretary under sec-  
25                  tion 1115, and individuals who are eligible for

1           *medical assistance under the State plan under*  
2           *title XIX (regardless of whether the State has*  
3           *provided reimbursement for any such assistance*  
4           *provided under such title)).*

5           “(cc) *The costs incurred by the hospital dur-*  
6           *ing a period (as so determined) of furnishing in-*  
7           *patient and outpatient hospital services to indi-*  
8           *viduals who are not described in item (aa) or*  
9           *(bb) and who do not have health insurance cov-*  
10          *erage (or any other source of third party pay-*  
11          *ment for such services) and for which the hos-*  
12          *pital did not receive compensation.*

13          “(IV)(aa) *The requirement described in this sub-*  
14          *clause is that for each calendar year for which the*  
15          *formula established under this clause applies, the ad-*  
16          *ditional payment amount determined for such cal-*  
17          *endar year under such formula shall not exceed an*  
18          *amount equal to the additional payment amount*  
19          *that, in the absence of such formula, would have been*  
20          *determined under this subparagraph, reduced by the*  
21          *applicable percentage for such calendar year.*

22          “(bb) *For purposes of subclause (aa), the appli-*  
23          *cable percentage for—*

24                  “(AA) *calendar year 1999 is 8 percent;*

25                  “(BB) *calendar year 2000 is 12 percent;*

1           “(CC) calendar year 2001 is 16 percent;  
2           “(DD) calendar year 2002 is 20 percent;  
3           “(EE) calendar year 2003 and subsequent  
4           calendar years, is 0 percent”.

5           **(b) DATA COLLECTION.—**

6           (1) *IN GENERAL.*—*In developing the formula*  
7           *under section 1886(g)(5)(F)(x) of the Social Security*  
8           *Act (42 U.S.C. 1395ww(g)(5)(F)(x)), as added by sub-*  
9           *section (a), and in implementing the provisions of*  
10           *and amendments made by this section, the Secretary*  
11           *of Health and Human Services may require any sub-*  
12           *section (d) hospital (as defined in section*  
13           *1886(d)(1)(B) of the Social Security Act (42 U.S.C.*  
14           *1395ww(d)(1)(B))) receiving additional payments by*  
15           *reason of section 1886(d)(5)(F) of that Act (42 U.S.C.*  
16           *1395ww(d)(5)(F)) (as amended by subsection (a) of*  
17           *this section) to submit to the Secretary any informa-*  
18           *tion that the Secretary determines is necessary to im-*  
19           *plement the provisions of and amendments made by*  
20           *this section.*

21           (2) *FAILURE TO COMPLY.*—*Any subsection (d)*  
22           *hospital (as so defined) that fails to submit to the*  
23           *Secretary of Health and Human Services any infor-*  
24           *mation requested under paragraph (1), shall be*  
25           *deemed ineligible for an additional payment amount*



1           (2) *by striking clause (ii); and*

2           (3) *by redesignating clauses (iii) and (iv) as*  
3 *clauses (ii) and (iii), respectively.*

4           (b) *EFFECTIVE DATE.*—*The amendments made by sub-*  
5 *section (a) apply to changes of ownership that occur after*  
6 *the third month beginning after the date of enactment of*  
7 *this section.*

8   **SEC. 5464. ELIMINATION OF IME AND DSH PAYMENTS AT-**  
9                                   **TRIBUTABLE TO OUTLIER PAYMENTS.**

10          (a) *INDIRECT MEDICAL EDUCATION.*—*Section*  
11 *1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is*  
12 *amended by inserting “, for cases qualifying for additional*  
13 *payment under subparagraph (A)(i),” before “the amount*  
14 *paid to the hospital under subparagraph (A)”.*

15          (b) *DISPROPORTIONATE SHARE ADJUSTMENTS.*—*Sec-*  
16 *tion 1886(d)(5)(F)(ii)(I) (42 U.S.C.*  
17 *1395ww(d)(5)(F)(ii)(I)) is amended by inserting “, for*  
18 *cases qualifying for additional payment under subpara-*  
19 *graph (A)(i),” before “the amount paid to the hospital*  
20 *under subparagraph (A)”.*

21          (c) *COST OUTLIER PAYMENTS.*—*Section*  
22 *1886(d)(5)(A)(ii) (42 U.S.C. 1395ww(d)(5)(A)(ii)) is*  
23 *amended by striking “exceed the applicable DRG prospec-*  
24 *tive payment rate” and inserting “exceed the sum of the*  
25 *applicable DRG prospective payment rate plus any*

1 amounts payable under subparagraphs (B) and (F) of sub-  
2 section (d)(5)”.

3 (d) *EFFECTIVE DATE.*—*The amendments made by this*  
4 *section apply to discharges occurring after September 30,*  
5 *1997.*

6 **SEC. 5465. TREATMENT OF TRANSFER CASES.**

7 (a) *TRANSFERS TO PPS EXEMPT HOSPITALS AND*  
8 *SKILLED NURSING FACILITIES.*—*Section 1886(d)(5)(I) (42*  
9 *U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end*  
10 *the following new clause:*

11 “(iii) *In carrying out this subparagraph, the Secretary*  
12 *shall treat the term ‘transfer case’ as including the case of*  
13 *an individual who, immediately upon discharge from, and*  
14 *pursuant to the discharge planning process (as defined in*  
15 *section 1861(ee)) of, a subsection (d) hospital—*

16 “(I) *is admitted as an inpatient to a hospital or*  
17 *hospital unit that is not a subsection (d) hospital for*  
18 *the receipt of inpatient hospital services; or*

19 “(II) *is admitted to a skilled nursing facility or*  
20 *facility described in section 1861(y)(1) for the receipt*  
21 *of extended care services.”.*

22 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
23 *section (a) shall apply with respect to discharges occurring*  
24 *on or after October 1, 1997.*

1 **SEC. 5466. REDUCTIONS IN PAYMENTS FOR ENROLLEE BAD**  
2 **DEBT.**

3 *Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amend-*  
4 *ed by adding at the end the following new subparagraph:*

5 *“(T) In determining such reasonable costs for hos-*  
6 *pitals, the amount of bad debts otherwise treated as allow-*  
7 *able costs which are attributable to the deductibles and coin-*  
8 *surance amounts under this title shall be reduced—*

9 *“(i) for cost reporting periods beginning on or*  
10 *after October 1, 1997 and on or before December 31,*  
11 *1998, by 25 percent of such amount otherwise allow-*  
12 *able,*

13 *“(ii) for cost reporting periods beginning during*  
14 *calendar year 1999, by 40 percent of such amount*  
15 *otherwise allowable, and*

16 *“(iii) for cost reporting periods beginning during*  
17 *a subsequent calendar year, by 50 percent of such*  
18 *amount otherwise allowable.”.*

19 **SEC. 5467. FLOOR ON AREA WAGE INDEX.**

20 *(a) IN GENERAL.—For purposes of section*  
21 *1886(d)(3)(E) of the Social Security Act (42 U.S.C.*  
22 *1395ww(d)(3)(E)) for discharges occurring on or after Octo-*  
23 *ber 1, 1997, the area wage index applicable under such sec-*  
24 *tion to any hospital which is not located in a rural area*  
25 *(as defined in section 1886(d)(2)(D) of such Act (42 U.S.C.*  
26 *1395ww(d)(2)(D)) may not be less than the average of the*

1 *area wage indices applicable under such section to hospitals*  
2 *located in rural areas in the State in which the hospital*  
3 *is located.*

4       **(b) IMPLEMENTATION.**—*The Secretary of Health and*  
5 *Human Services shall adjust the area wage indices referred*  
6 *to in subsection (a) for hospitals not described in such sub-*  
7 *section in a manner which assures that the aggregate pay-*  
8 *ments made under section 1886(d) of the Social Security*  
9 *Act (42 U.S.C. 1395ww(d)) in a fiscal year for the operat-*  
10 *ing costs of inpatient hospital services are not greater or*  
11 *less than those which would have been made in the year*  
12 *if this section did not apply.*

13       **(c) EXCLUSION OF CERTAIN WAGES.**—*In the case of*  
14 *a hospital that is owned by a municipality and that was*  
15 *reclassified as an urban hospital under section 1886(d)(10)*  
16 *of the Social Security Act for fiscal year 1996, in calculat-*  
17 *ing the hospital's average hourly wage for purposes of geo-*  
18 *graphic reclassification under such section for fiscal year*  
19 *1998, the Secretary of Health and Human Services shall*  
20 *exclude the general service wages and hours of personnel as-*  
21 *sociated with a skilled nursing facility that is owned by*  
22 *the hospital of the same municipality and that is physically*  
23 *separated from the hospital to the extent that such wages*  
24 *and hours of such personnel are not shared with the hospital*  
25 *and are separately documented. A hospital that applied for*

1 *and was denied reclassification as an urban hospital for*  
2 *fiscal year 1998, but that would have received reclassifica-*  
3 *tion had the exclusion required by this section been applied*  
4 *to it, shall be reclassified as an urban hospital for fiscal*  
5 *year 1998.*

6 **SEC. 5468. INCREASE BASE PAYMENT RATE TO PUERTO**  
7 **RICO HOSPITALS.**

8 *Section 1886(d)(9)(A) (42 U.S.C. 1395ww(d)(9)(A)) is*  
9 *amended—*

10 *(1) in the matter preceding clause (i), by strik-*  
11 *ing “in a fiscal year beginning on or after October*  
12 *1, 1987,”*

13 *(2) in clause (i), by striking “75 percent” and*  
14 *inserting “for discharges beginning on or after Octo-*  
15 *ber 1, 1997, 50 percent (and for discharges between*  
16 *October 1, 1987, and September 30, 1997, 75 per-*  
17 *cent)”*, and

18 *(3) in clause (ii), by striking “25 percent” and*  
19 *inserting “for discharges beginning in a fiscal year*  
20 *beginning on or after October 1, 1997, 50 percent*  
21 *(and for discharges between October 1, 1987 and Sep-*  
22 *tember 30, 1997, 25 percent)”*.

1 **SEC. 5469. PERMANENT EXTENSION OF HEMOPHILIA PASS-**  
2 **THROUGH.**

3 *Effective October 1, 1997, section 6011(d) of OBRA-*  
4 *1989 (as amended by section 13505 of OBRA-1993) is*  
5 *amended by striking “and shall expire September 30,*  
6 *1994”.*

7 **SEC. 5470. COVERAGE OF SERVICES IN RELIGIOUS NON-**  
8 **MEDICAL HEALTH CARE INSTITUTIONS**  
9 **UNDER THE MEDICARE AND MEDICAID PRO-**  
10 **GRAMS.**

11 *(a) MEDICARE COVERAGE.—*

12 *(1) IN GENERAL.—Section 1861 of the Social Se-*  
13 *curity Act (42 U.S.C. 1395x) (as amended by section*  
14 *5361) is amended—*

15 *(1) in the sixth sentence of subsection (e)—*

16 *(A) by striking “includes” and all that fol-*  
17 *lows up to “but only” and inserting “includes a*  
18 *religious nonmedical health care institution (as*  
19 *defined in subsection (rr)(1)),”, and*

20 *(B) by inserting “consistent with section*  
21 *1821” before the period;*

22 *(2) in subsection (y)—*

23 *(A) by amending the heading to read as fol-*  
24 *lows:*

1     *“Extended Care in Religious Nonmedical Health Care*  
2                                     *Institutions”*,

3             *(B) in paragraph (1), by striking “in-*  
4             *cludes” and all that follows up to “but only” and*  
5             *inserting “includes a religious nonmedical health*  
6             *care institution (as defined in subsection*  
7             *(rr)(1)),”*, and

8             *(C) by inserting “consistent with section*  
9             *1821” before the period; and*

10            *(3) by adding at the end the following:*

11            *“Religious Nonmedical Health Care Institution*

12            *“(rr)(1) The term ‘religious nonmedical health care in-*  
13            *stitution’ means an institution that—*

14                     *“(A) is described in subsection (c)(3) of sec-*  
15                     *tion 501 of the Internal Revenue Code of 1986*  
16                     *and is exempt from taxes under subsection (a) of*  
17                     *such section;*

18                     *“(B) is lawfully operated under all applica-*  
19                     *ble Federal, State, and local laws and regula-*  
20                     *tions;*

21                     *“(C) provides only nonmedical nursing*  
22                     *items and services exclusively to patients who*  
23                     *choose to rely solely upon a religious method of*  
24                     *healing and for whom the acceptance of medical*

1           *health services would be inconsistent with their*  
2           *religious beliefs;*

3           “(D) provides such nonmedical items and  
4           services exclusively through nonmedical nursing  
5           personnel who are experienced in caring for the  
6           physical needs of such patients;

7           “(E) provides such nonmedical items and  
8           services to inpatients on a 24-hour basis;

9           “(F) on the basis of its religious beliefs, does  
10          not provide through its personnel or otherwise  
11          medical items and services (including any medi-  
12          cal screening, examination, diagnosis, prognosis,  
13          treatment, or the administration of drugs) for its  
14          patients;

15          “(G) is not a part of, or owned by, or under  
16          common ownership with, or affiliated through  
17          ownership with, a health care facility that pro-  
18          vides medical services;

19          “(H) has in effect a utilization review plan  
20          which—

21                 “(i) provides for the review of admis-  
22                 sions to the institution, of the duration of  
23                 stays therein, of cases of continuous ex-  
24                 tended duration, and of the items and serv-  
25                 ices furnished by the institution,

1           “(ii) requires that such reviews be  
2           made by an appropriate committee of the  
3           institution that includes the individuals re-  
4           sponsible for overall administration and for  
5           supervision of nursing personnel at the in-  
6           stitution,

7           “(iii) provides that records be main-  
8           tained of the meetings, decisions, and ac-  
9           tions of such committee, and

10          “(iv) meets such other requirements as  
11          the Secretary finds necessary to establish an  
12          effective utilization review plan;

13          “(I) provides the Secretary with such infor-  
14          mation as the Secretary may require to imple-  
15          ment section 1821, to monitor quality of care,  
16          and to provide for coverage determinations; and

17          “(J) meets such other requirements as the  
18          Secretary finds necessary in the interest of the  
19          health and safety of individuals who are fur-  
20          nished services in the institution.

21          “(2) If the Secretary finds that the accreditation of an  
22          institution by a State, regional, or national agency or asso-  
23          ciation provides reasonable assurances that any or all of  
24          the requirements of paragraph (1) are met or exceeded, the  
25          Secretary shall, to the extent the Secretary deems it appro-

1 *priate, treat such institution as meeting the condition or*  
2 *conditions with respect to which the Secretary made such*  
3 *finding.*

4       “(3)(A)(i) *In administering this subsection and section*  
5 *1821, the Secretary shall not require any patient of a reli-*  
6 *gious nonmedical health care institution to undergo any*  
7 *medical screening, examination, diagnosis, prognosis, or*  
8 *treatment or to accept any other medical health care service,*  
9 *if such patient (or legal representative of the patient) objects*  
10 *thereto on religious grounds.*

11       “(ii) *Clause (i) shall not be construed as preventing*  
12 *the Secretary from requiring under section 1821(a)(2) the*  
13 *provision of sufficient information regarding an individ-*  
14 *ual’s condition as a condition for receipt of benefits under*  
15 *part A for services provided in such an institution.*

16       “(B)(i) *In administering this subsection and section*  
17 *1821, the Secretary shall not subject a religious nonmedical*  
18 *health care institution to any medical supervision, regula-*  
19 *tion, or control, insofar as such supervision, regulation, or*  
20 *control would be contrary to the religious beliefs observed*  
21 *by the institution.*

22       “(ii) *Clause (i) shall not be construed as preventing*  
23 *the Secretary from reviewing items and services billed by*  
24 *the institution to the extent the Secretary determines such*  
25 *review to be necessary to determine whether such items and*

1 *services were not covered under part A, are excessive, or*  
2 *are fraudulent.”.*

3           (2) *CONDITIONS OF COVERAGE.—Part A of title*  
4           *XVIII of the Social Security Act is amended by add-*  
5           *ing at the end the following new section:*

6           “*CONDITIONS FOR COVERAGE OF RELIGIOUS NONMEDICAL*  
7           *HEALTH CARE INSTITUTIONAL SERVICES*

8           “*SEC. 1821. (a) IN GENERAL.—Subject to subsections*  
9           *(c) and (d), payment under this part may be made for in-*  
10           *patient hospital services or post-hospital extended care serv-*  
11           *ices furnished an individual in a religious nonmedical*  
12           *health care institution only if—*

13           “*(1) the individual has an election in effect for*  
14           *such benefits under subsection (b); and*

15           “*(2) the individual has a condition such that the*  
16           *individual would qualify for benefits under this part*  
17           *for inpatient hospital services or extended care serv-*  
18           *ices, respectively, if the individual were an inpatient*  
19           *or resident in a hospital or skilled nursing facility*  
20           *that was not such an institution.*

21           “*(b) ELECTION.—*

22           “*(1) IN GENERAL.—An individual may make an*  
23           *election under this subsection in a form and manner*  
24           *specified by the Secretary consistent with this sub-*  
25           *section. Unless otherwise provided, such an election*  
26           *shall take effect immediately upon its execution. Such*

1        *an election, once made, shall continue in effect until*  
2        *revoked.*

3            *“(2) FORM.—The election form under this sub-*  
4        *section shall include the following:*

5            *“(A) A statement, signed by the individual*  
6        *(or such individual’s legal representative),*  
7        *that—*

8            *“(i) the individual is conscientiously*  
9        *opposed to acceptance of nonexcepted medi-*  
10       *cal treatment; and*

11           *“(ii) the individual’s acceptance of*  
12       *nonexcepted medical treatment would be in-*  
13       *consistent with the individual’s sincere reli-*  
14       *gious beliefs.*

15           *“(B) A statement that the receipt of non-ex-*  
16       *cepted medical services shall constitute a revoca-*  
17       *tion of the election and may limit further receipt*  
18       *of services described in subsection (a).*

19           *“(3) REVOCATION.—An election under this sub-*  
20       *section by an individual may be revoked in a form*  
21       *and manner specified by the Secretary and shall be*  
22       *deemed to be revoked if the individual receives medi-*  
23       *care reimbursable non-excepted medical treatment, re-*  
24       *gardless of whether or not benefits for such treatment*  
25       *are provided under this title.*

1           “(4) *LIMITATION ON SUBSEQUENT ELECTIONS.*—  
2           *Once an individual’s election under this subsection*  
3           *has been made and revoked twice—*

4                   “(A) *the next election may not become effec-*  
5                   *tive until the date that is 1 year after the date*  
6                   *of most recent previous revocation, and*

7                   “(B) *any succeeding election may not be-*  
8                   *come effective until the date that is 5 years after*  
9                   *the date of the most recent previous revocation.*

10           “(5) *EXCEPTED MEDICAL TREATMENT.*—*For*  
11           *purposes of this subsection:*

12                   “(A) *EXCEPTED MEDICAL TREATMENT.*—  
13                   *The term ‘excepted medical treatment’ means*  
14                   *medical care or treatment (including medical*  
15                   *and other health services)—*

16                           “(i) *for the setting of fractured bones,*

17                           “(ii) *received involuntarily, or*

18                           “(iii) *required under Federal or State*  
19                   *law or law of a political subdivision of a*  
20                   *State.*

21                   “(B) *NON-EXCEPTED MEDICAL TREAT-*  
22                   *MENT.*—*The term ‘nonexcepted medical treat-*  
23                   *ment’ means medical care or treatment (includ-*  
24                   *ing medical and other health services) other than*  
25                   *excepted medical treatment.*

1       “(c) *MONITORING AND SAFEGUARD AGAINST EXCES-*  
2 *SIVE EXPENDITURES.*—

3               “(1) *ESTIMATE OF EXPENDITURES.*—*Before the*  
4 *beginning of each fiscal year (beginning with fiscal*  
5 *year 2000), the Secretary shall estimate the level of*  
6 *expenditures under this part for services described in*  
7 *subsection (a) for that fiscal year.*

8               “(2) *ADJUSTMENT IN PAYMENTS.*—

9                       “(A) *PROPORTIONAL ADJUSTMENT.*—*If the*  
10 *Secretary determines that the level estimated*  
11 *under paragraph (1) for a fiscal year will exceed*  
12 *the trigger level (as defined in subparagraph*  
13 *(C)) for that fiscal year, the Secretary shall, sub-*  
14 *ject to subparagraph (B), provide for such a pro-*  
15 *portional reduction in payment amounts under*  
16 *this part for services described in subsection (a)*  
17 *for the fiscal year involved as will assure that*  
18 *such level (taking into account any adjustment*  
19 *under subparagraph (B)) does not exceed the*  
20 *trigger level for that fiscal year.*

21                       “(B) *ALTERNATIVE ADJUSTMENTS.*—*The*  
22 *Secretary may, instead of making some or all of*  
23 *the reduction described in subparagraph (A), im-*  
24 *pose such other conditions or limitations with re-*  
25 *spect to the coverage of covered services (includ-*

1            *ing limitations on new elections of coverage and*  
2            *new facilities) as may be appropriate to reduce*  
3            *the level of expenditures described in paragraph*  
4            *(1) to the trigger level.*

5            *“(C) TRIGGER LEVEL.—For purposes of this*  
6            *subsection, subject to adjustment under para-*  
7            *graph (3)(B), the ‘trigger level’ for—*

8                    *“(i) fiscal year 1998, is \$20,000,000,*

9                    *or*

10                    *“(ii) a succeeding fiscal year is the*  
11                    *amount specified under this subparagraph*  
12                    *for the previous fiscal year increased by the*  
13                    *percentage increase in the consumer price*  
14                    *index for all urban consumers (all items;*  
15                    *United States city average) for the 12-*  
16                    *month period ending with July preceding*  
17                    *the beginning of the fiscal year.*

18            *“(D) PROHIBITION OF ADMINISTRATIVE AND*  
19            *JUDICIAL REVIEW.—There shall be no adminis-*  
20            *trative or judicial review under section 1869,*  
21            *1878, or otherwise of the estimation of expendi-*  
22            *tures under subparagraph (A) or the application*  
23            *of reduction amounts under subparagraph (B).*

24            *“(E) EFFECT ON BILLING.—Notwithstand-*  
25            *ing any other provision of this title, in the case*

1           *of a reduction in payment provided under this*  
2           *subsection for services of a religious nonmedical*  
3           *health care institution provided to an individ-*  
4           *ual, the amount that the institution is otherwise*  
5           *permitted to charge the individual for such serv-*  
6           *ices is increased by the amount of such reduc-*  
7           *tion.*

8           “(3) *MONITORING EXPENDITURE LEVEL.—*

9                 “(A) *IN GENERAL.—The Secretary shall*  
10            *monitor the expenditure level described in para-*  
11            *graph (2)(A) for each fiscal year (beginning with*  
12            *fiscal year 1999).*

13                 “(B) *ADJUSTMENT IN TRIGGER LEVEL.—If*  
14            *the Secretary determines that such level for a fis-*  
15            *cal year exceeded, or was less than, the trigger*  
16            *level for that fiscal year, then the trigger level for*  
17            *the succeeding fiscal year shall be reduced, or in-*  
18            *creased, respectively, by the amount of such ex-*  
19            *cess or deficit.*

20                 “(d) *SUNSET.—If the Secretary determines that the*  
21            *level of expenditures described in subsection (c)(1) for 3 con-*  
22            *secutive fiscal years (with the first such year being not ear-*  
23            *lier than fiscal year 2002) exceeds the trigger level for such*  
24            *expenditures for such years (as determined under subsection*  
25            *(c)(2)), benefits shall be paid under this part for services*

1 *described in subsection (a) and furnished on or after the*  
2 *first January 1 that occurs after such 3 consecutive years*  
3 *only with respect to an individual who has an election in*  
4 *effect under subsection (b) as of such January 1 and only*  
5 *during the duration of such election.*

6       “(e) *ANNUAL REPORT.*—*At the beginning of each fiscal*  
7 *year (beginning with fiscal year 1999), the Secretary shall*  
8 *submit to the Committees on Ways and Means of the House*  
9 *of Representatives and the Committee on Finance of the*  
10 *Senate an annual report on coverage and expenditures for*  
11 *services described in subsection (a) under this part and*  
12 *under State plans under title XIX. Such report shall in-*  
13 *clude—*

14               “(1) *level of expenditures described in subsection*  
15 *(c)(1) for the previous fiscal year and estimated for*  
16 *the fiscal year involved;*

17               “(2) *trends in such level; and*

18               “(3) *facts and circumstances of any significant*  
19 *change in such level from the level in previous fiscal*  
20 *years.”.*

21       “(b) *MEDICAID.*—

22               “(1) *The third sentence of section 1902(a) of such*  
23 *Act (42 U.S.C. 1396a(a)) is amended by striking all*  
24 *that follows “shall not apply” and inserting “to a re-*

1 *ligious nonmedical health care institution (as defined*  
2 *in section 1861(rr)(1)).”.*

3 (2) *Section 1908(e)(1) of such Act (42 U.S.C.*  
4 *1396g–1(e)(1)) is amended by striking all that follows*  
5 *“does not include” and inserting “a religious non-*  
6 *medical health care institution (as defined in section*  
7 *1861(rr)(1)).”.*

8 (c) *CONFORMING AMENDMENTS.—*

9 (1) *Section 1122(h) of such Act (42 U.S.C.*  
10 *1320a–1(h)) is amended by striking all that follows*  
11 *“shall not apply to” and inserting “a religious non-*  
12 *medical health care institution (as defined in section*  
13 *1861(rr)(1)).”.*

14 (2) *Section 1162 of such Act (42 U.S.C. 1320c–*  
15 *11) is amended—*

16 (A) *by amending the heading to read as fol-*  
17 *lows:*

18 *“EXEMPTIONS FOR RELIGIOUS NONMEDICAL HEALTH CARE*  
19 *INSTITUTIONS”;* *and*

20 (B) *by striking all that follows “shall not*  
21 *apply with respect to a” and inserting “religious*  
22 *nonmedical health care institution (as defined in*  
23 *section 1861(rr)(1)).”.*

24 (d) *EFFECTIVE DATE.—The amendments made by this*  
25 *section shall take effect on the date of the enactment of this*

1 *Act and shall apply to items and services furnished on or*  
 2 *after such date. By not later than July 1, 1998, the Sec-*  
 3 *retary of Health and Human Services shall first issue regu-*  
 4 *lations to carry out such amendments. Such regulations*  
 5 *may be issued so they are effective on an interim basis*  
 6 *pending notice and opportunity for public comment. For*  
 7 *periods before the effective date of such regulations, such reg-*  
 8 *ulations shall recognize elections entered into in good faith*  
 9 *in order to comply with the requirements of section 1821(b)*  
 10 *of the Social Security Act.*

11       **CHAPTER 5—PAYMENTS FOR HOSPICE**

12                               **SERVICES**

13       **SEC. 5481. PAYMENT FOR HOME HOSPICE CARE BASED ON**

14                               **LOCATION WHERE CARE IS FURNISHED.**

15       (a) *IN GENERAL.*—Section 1814(i)(2) (42 U.S.C.  
 16 1395f(i)(2)) is amended by adding at the end the following:

17               “(D) *A hospice program shall submit claims for pay-*  
 18 *ment for hospice care furnished in an individual’s home*  
 19 *under this title only on the basis of the geographic location*  
 20 *at which the service is furnished, as determined by the Sec-*  
 21 *retary.”.*

22       (b) *EFFECTIVE DATE.*—The amendment made by sub-  
 23 section (a) applies to cost reporting periods beginning on  
 24 or after October 1, 1997.

1 **SEC. 5482. HOSPICE CARE BENEFITS PERIODS.**

2 (a) *RESTRUCTURING OF BENEFIT PERIOD.*—Section  
3 1812 (42 U.S.C. 1395d) is amended in subsections (a)(4)  
4 and (d)(1), by striking “, a subsequent period of 30 days,  
5 and a subsequent extension period” and inserting “and an  
6 unlimited number of subsequent periods of 60 days each”.

7 (b) *CONFORMING AMENDMENTS.*—(1) Section 1812 (42  
8 U.S.C. 1395d) is amended in subsection (d)(2)(B) by strik-  
9 ing “90- or 30-day period or a subsequent extension period”  
10 and inserting “90-day period or a subsequent 60-day pe-  
11 riod”.

12 (2) Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A))  
13 is amended—

14 (A) in clause (i), by inserting “and” at the end;

15 (B) in clause (ii)—

16 (i) by striking “30-day” and inserting “60-  
17 day”; and

18 (ii) by striking “, and” at the end and in-  
19 serting a period; and

20 (C) by striking clause (iii).

21 **SEC. 5483. OTHER ITEMS AND SERVICES INCLUDED IN HOS-**  
22 **PICE CARE.**

23 Section 1861(dd)(1) (42 U.S.C. 1395x(dd)(1)) is  
24 amended—

25 (1) in subparagraph (G), by striking “and” at  
26 the end;

1           (2) in subparagraph (H), by striking the period  
2           at the end and inserting “, and”; and

3           (3) by inserting after subparagraph (H) the fol-  
4           lowing:

5           “(I) any other item or service which is specified  
6           in the plan and for which payment may otherwise be  
7           made under this title.”.

8   **SEC. 5484. CONTRACTING WITH INDEPENDENT PHYSICIANS**  
9                           **OR PHYSICIAN GROUPS FOR HOSPICE CARE**  
10                           **SERVICES PERMITTED.**

11       Section 1861(dd)(2) (42 U.S.C. 1395x(dd)(2)) is  
12       amended—

13           (1) in subparagraph (A)(ii)(I), by striking  
14           “(F),”; and

15           (2) in subparagraph (B)(i), by inserting “or, in  
16           the case of a physician described in subclause (I),  
17           under contract with” after “employed by”.

18   **SEC. 5485. WAIVER OF CERTAIN STAFFING REQUIREMENTS**  
19                           **FOR HOSPICE CARE PROGRAMS IN NON-UR-**  
20                           **BANIZED AREAS.**

21       Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is  
22       amended—

23           (1) in subparagraph (B), by inserting “or (C)”  
24           after “subparagraph (A)” each place it appears; and

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

1       “(C) *The Secretary may waive the requirements of*  
2 *paragraph clauses (i) and (ii) of paragraph (2)(A) for an*  
3 *agency or organization with respect to the services described*  
4 *in paragraph (1)(B) and, with respect to dietary counsel-*  
5 *ing, paragraph (1)(H), if such agency or organization—*

6               “(i) *is located in an area which is not an urban-*  
7 *ized area (as defined by the Bureau of the Census),*  
8 *and*

9               “(ii) *demonstrates to the satisfaction of the Sec-*  
10 *retary that the agency or organization has been un-*  
11 *able, despite diligent efforts, to recruit appropriate*  
12 *personnel.”.*

13 **SEC. 5486. LIMITATION ON LIABILITY OF BENEFICIARIES**  
14 **FOR CERTAIN HOSPICE COVERAGE DENIALS.**

15 *Section 1879 (42 U.S.C. 1395pp) is amended—*

16               (1) *in subsection (a), in the matter following*  
17 *paragraph (2), by inserting “and except as provided*  
18 *in subsection (i),” after “to the extent permitted by*  
19 *this title,”;*

20               (2) *in subsection (g)—*

21                       (A) *by redesignating paragraphs (1) and*  
22 *(2) as subparagraphs (A) and (B), respectively,*  
23 *and indenting such subparagraphs appro-*  
24 *priately;*

25                       (B) *by striking “is,” and inserting “is—”;*

1           (C) by making the remaining text of sub-  
2           section (g) (as amended) that follows “is—” a  
3           new paragraph (1) and indenting that para-  
4           graph appropriately;

5           (D) by striking the period at the end and  
6           inserting “; and”; and

7           (E) by adding at the end the following:

8           “(2) with respect to the provision of hospice care  
9           to an individual, a determination that the individual  
10          is not terminally ill.”; and

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

12          “(i) In any case involving a coverage denial with re-  
13          spect to hospice care described in subsection (g)(2), only the  
14          individual that received such care shall, notwithstanding  
15          such determination, be indemnified for any payments that  
16          the individual made to a provider or other person for such  
17          care that would, but for such denial, otherwise be paid to  
18          the individual under part A or B of this title.”.

19   **SEC. 5487. EXTENDING THE PERIOD FOR PHYSICIAN CER-**  
20                           **TIFICATION OF AN INDIVIDUAL’S TERMINAL**  
21                           **ILLNESS.**

22          Section 1814(a)(7)(A)(i) (42 U.S.C. 1395f(a)(7)(A)(i))  
23          is amended, in the matter following subclause (II), by strik-  
24          ing “, not later than 2 days after hospice care is initiated  
25          (or, if each certify verbally not later than 2 days after hos-

1 *pice care is initiated, not later than 8 days after such care*  
 2 *is initiated)” and inserting “at the beginning of the pe-*  
 3 *riod”.*

4 **SEC. 5488. EFFECTIVE DATE.**

5 *Except as otherwise provided in this chapter, the*  
 6 *amendments made by this chapter apply to benefits pro-*  
 7 *vided on or after the date of the enactment of this chapter,*  
 8 *regardless of whether or not an individual has made an*  
 9 *election under section 1812(d) of the Social Security Act*  
 10 *(42 U.S.C. 1395d(d)) before such date.*

11 ***Subtitle G—Provisions Relating to***  
 12 ***Part B Only***

13 ***CHAPTER 1—PAYMENTS FOR PHYSICIANS***  
 14 ***AND OTHER HEALTH CARE PROVIDERS***

15 ***SEC. 5501. ESTABLISHMENT OF SINGLE CONVERSION FAC-***  
 16 ***TOR FOR 1998.***

17 *(a) IN GENERAL.—Section 1848(d)(1) (42 U.S.C.*  
 18 *1395w-4(d)(1)) is amended to read as follows:*

19 *“(1) ESTABLISHMENT.—*

20 *“(A) IN GENERAL.—The conversion factor*  
 21 *for each year shall be the conversion factor estab-*  
 22 *lished under this subsection for the previous*  
 23 *year, adjusted by the update established under*  
 24 *paragraph (3) for the year involved.*

1           “(B) *SPECIAL RULE FOR 1998.*—*The single*  
2           *conversion factor for 1998 shall be the conversion*  
3           *factor for primary care services for 1997, in-*  
4           *creased by the Secretary’s estimate of the weight-*  
5           *ed average of the 3 separate updates that would*  
6           *otherwise occur but for the enactment of chapter*  
7           *1 of subtitle G of title V of the Balanced Budget*  
8           *Act of 1997.*

9           “(C) *PUBLICATION.*—*The Secretary shall,*  
10           *during the last 15 days of October of each year,*  
11           *publish the conversion factor which will apply to*  
12           *physicians’ services for the following year and*  
13           *the update determined under paragraph (3) for*  
14           *such year.”.*

15           (b) *CONFORMING AMENDMENT.*—*Section 1848(i)(1)(C)*  
16           *(42 U.S.C. 1395w-4(i)(1)(C)) is amended by striking “con-*  
17           *version factors” and inserting “the conversion factor”.*

18           **SEC. 5502. ESTABLISHING UPDATE TO CONVERSION FAC-**  
19                                    **TOR TO MATCH SPENDING UNDER SUSTAIN-**  
20                                    **ABLE GROWTH RATE.**

21           (a) *UPDATE.*—

22                           (1) *IN GENERAL.*—*Section 1848(d)(3) (42 U.S.C.*  
23                           *1395w-4(d)(3)) is amended to read as follows:*

24                           “(3) *UPDATE.*—

1           “(A) *IN GENERAL.*—Unless otherwise pro-  
2           vided by law, subject to subparagraph (D) and  
3           the budget-neutrality factor determined by the  
4           Secretary under subsection (c)(2)(B)(ii), the up-  
5           date to the single conversion factor established in  
6           paragraph (1)(B) for a year beginning with  
7           1999 is equal to the product of—

8                   “(i) 1 plus the Secretary’s estimate of  
9                   the percentage increase in the MEI (as de-  
10                  fined in section 1842(i)(3)) for the year (di-  
11                  vided by 100), and

12                  “(ii) 1 plus the Secretary’s estimate of  
13                  the update adjustment factor for the year  
14                  (divided by 100),

15           minus 1 and multiplied by 100.

16           “(B) *UPDATE ADJUSTMENT FACTOR.*—For  
17           purposes of subparagraph (A)(ii), the ‘update  
18           adjustment factor’ for a year is equal to the  
19           quotient (as estimated by the Secretary) of—

20                   “(i) the difference between (I) the sum  
21                   of the allowed expenditures for physicians’  
22                   services (as determined under subparagraph  
23                   (C)) for the period beginning July 1, 1997,  
24                   and ending on June 30 of the year involved,  
25                   and (II) the amount of actual expenditures

1           for physicians' services furnished during the  
2           period beginning July 1, 1997, and ending  
3           on June 30 of the preceding year; divided  
4           by

5           “(ii) the actual expenditures for physi-  
6           cians' services for the 12-month period end-  
7           ing on June 30 of the preceding year, in-  
8           creased by the sustainable growth rate  
9           under subsection (f) for the fiscal year  
10          which begins during such 12-month period.

11          “(C) DETERMINATION OF ALLOWED EX-  
12          PENDITURES.—For purposes of this paragraph,  
13          the allowed expenditures for physicians' services  
14          for the 12-month period ending with June 30  
15          of—

16               “(i) 1997 is equal to the actual expend-  
17               itures for physicians' services furnished dur-  
18               ing such 12-month period, as estimated by  
19               the Secretary; or

20               “(ii) a subsequent year is equal to the  
21               allowed expenditures for physicians' services  
22               for the previous year, increased by the sus-  
23               tainable growth rate under subsection (f) for  
24               the fiscal year which begins during such 12-  
25               month period.

1           “(D) *RESTRICTION ON VARIATION FROM*  
2           *MEDICARE ECONOMIC INDEX.*—*Notwithstanding*  
3           *the amount of the update adjustment factor de-*  
4           *termined under subparagraph (B) for a year, the*  
5           *update in the conversion factor under this para-*  
6           *graph for the year may not be—*

7                   “(i) *greater than 100 times the follow-*  
8                   *ing amount: (1.03 + (MEI percentage/100))*  
9                   *– 1; or*

10                   “(ii) *less than 100 times the following*  
11                   *amount: (0.93 + (MEI percentage/100))*  
12                   *– 1,*

13           *where ‘MEI percentage’ means the Secretary’s es-*  
14           *timate of the percentage increase in the MEI (as*  
15           *defined in section 1842(i)(3)) for the year in-*  
16           *volved.’.*

17           (b) *ELIMINATION OF REPORT.*—*Section 1848(d) (42*  
18           *U.S.C. 1395w–4(d)) is amended by striking paragraph (2).*

19           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
20           *section shall apply to the update for years beginning with*  
21           *1999.*

1 **SEC. 5503. REPLACEMENT OF VOLUME PERFORMANCE**  
2 **STANDARD WITH SUSTAINABLE GROWTH**  
3 **RATE.**

4 (a) *IN GENERAL.*—Section 1848(f) (42 U.S.C. 1395w–  
5 4(f)) is amended by striking paragraphs (2) through (5)  
6 and inserting the following:

7 “(2) *SPECIFICATION OF GROWTH RATE.*—The  
8 sustainable growth rate for all physicians’ services for  
9 a fiscal year (beginning with fiscal year 1998) shall  
10 be equal to the product of—

11 “(A) 1 plus the Secretary’s estimate of the  
12 weighted average percentage increase (divided by  
13 100) in the fees for all physicians’ services in the  
14 fiscal year involved,

15 “(B) 1 plus the Secretary’s estimate of the  
16 percentage change (divided by 100) in the aver-  
17 age number of individuals enrolled under this  
18 part (other than Medicare Choice plan enrollees)  
19 from the previous fiscal year to the fiscal year  
20 involved,

21 “(C) 1 plus the Secretary’s estimate of the  
22 projected percentage growth in real gross domes-  
23 tic product per capita (divided by 100) from the  
24 previous fiscal year to the fiscal year involved,  
25 and

1           “(D) 1 plus the Secretary’s estimate of the  
2           percentage change (divided by 100) in expendi-  
3           tures for all physicians’ services in the fiscal  
4           year (compared with the previous fiscal year)  
5           which will result from changes in law and regu-  
6           lations, determined without taking into account  
7           estimated changes in expenditures due to changes  
8           in the volume and intensity of physicians’ serv-  
9           ices resulting from changes in the update to the  
10          conversion factor under subsection (d)(3),  
11          minus 1 and multiplied by 100.

12          “(3) DEFINITIONS.—In this subsection:

13                 “(A) SERVICES INCLUDED IN PHYSICIANS’  
14                 SERVICES.—The term ‘physicians’ services’ in-  
15                 cludes other items and services (such as clinical  
16                 diagnostic laboratory tests and radiology serv-  
17                 ices), specified by the Secretary, that are com-  
18                 monly performed or furnished by a physician or  
19                 in a physician’s office, but does not include serv-  
20                 ices furnished to a Medicare Choice plan en-  
21                 rollee.

22                 “(B) MEDICARE CHOICE PLAN ENROLLEE.—  
23                 The term ‘Medicare Choice plan enrollee’ means,  
24                 with respect to a fiscal year, an individual en-  
25                 rolled under this part who has elected to receive

1           *benefits under this title for the fiscal year*  
2           *through a Medicare Choice plan offered under*  
3           *part C, and also includes an individual who is*  
4           *receiving benefits under this part through enroll-*  
5           *ment with an eligible organization with a risk-*  
6           *sharing contract under section 1876.”.*

7           **(b) CONFORMING AMENDMENTS.**—*So much of section*  
8           *1848(f) (42 U.S.C. 1395w-4(f)) as precedes paragraph (2)*  
9           *is amended to read as follows:*

10          **“(f) SUSTAINABLE GROWTH RATE.**—

11                 **“(1) PUBLICATION.**—*The Secretary shall cause to*  
12                 *have published in the Federal Register the sustainable*  
13                 *growth rate for each fiscal year beginning with fiscal*  
14                 *year 1998. Such publication shall occur in the last 15*  
15                 *days of October of the year in which the fiscal year*  
16                 *begins, except that such rate for fiscal year 1998 shall*  
17                 *be published not later than January 1, 1998.”.*

18          **SEC. 5504. PAYMENT RULES FOR ANESTHESIA SERVICES.**

19                 **(a) IN GENERAL.**—*Section 1848(d)(1) (42 U.S.C.*  
20                 *1395w-4(d)(1)), as amended by section 5501, is amended—*

21                         **(A)** *in subparagraph (B), striking “The sin-*  
22                         *gle” and inserting “Except as provided in sub-*  
23                         *paragraph (C), the single”;*

24                         **(B)** *by redesignating subparagraph (C) as*  
25                         *subparagraph (D); and*

1                   (C) by inserting after subparagraph (B) the  
2                   following new subparagraph:

3                   “(C) *SPECIAL RULES FOR ANESTHESIA*  
4                   *SERVICES.—The separate conversion factor for*  
5                   *anesthesia services for a year shall be equal to 46*  
6                   *percent of the single conversion factor established*  
7                   *for other physicians’ services, except as adjusted*  
8                   *for changes in work, practice expense, or mal-*  
9                   *practice relative value units.”.*

10           (b) *CLASSIFICATION OF ANESTHESIA SERVICES.—The*  
11 *first sentence of section 1848(j)(1) (42 U.S.C. 1395w-*  
12 *4(j)(1)) is amended—*

13                   (1) by striking “and including anesthesia serv-  
14                   ices”; and

15                   (2) by inserting before the period the following:  
16                   “(including anesthesia services)”.

17           (c) *EFFECTIVE DATE.—The amendments made by this*  
18 *section shall apply to services furnished on or after January*  
19 *1, 1998.*

20 **SEC. 5505. IMPLEMENTATION OF RESOURCE-BASED METH-**  
21 **ODOLOGIES.**

22           (a) *ADJUSTMENTS TO RELATIVE VALUE UNITS FOR*  
23 *1998.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is*  
24 *amended by adding at the end the following new subpara-*  
25 *graph:*

1                   “(G) *ADJUSTMENTS IN RELATIVE VALUE*  
2                   *UNITS FOR 1998.*—

3                   “(i) *IN GENERAL.*—*The Secretary*  
4                   *shall—*

5                   “(I) *reduce the practice expense*  
6                   *relative value units applied to any*  
7                   *services described in clause (ii) fur-*  
8                   *nished in 1998 to a number equal to*  
9                   *110 percent of the number of work rel-*  
10                   *ative value units, and*

11                   “(II) *increase the practice expense*  
12                   *relative value units for office visit pro-*  
13                   *cedure codes during 1998 by a uniform*  
14                   *percentage which the Secretary esti-*  
15                   *mates will result in an aggregate in-*  
16                   *crease in payments for such services*  
17                   *equal to the aggregate decrease in pay-*  
18                   *ments by reason of subclause (I).*

19                   “(ii) *SERVICES COVERED.*—*For pur-*  
20                   *poses of clause (i), the services described in*  
21                   *this clause are physicians’ services that are*  
22                   *not described in clause (iii) and for*  
23                   *which—*

24                   “(I) *there are work relative value*  
25                   *units, and*

1                   “(II) the number of practice ex-  
 2                   pense relative value units (determined  
 3                   for 1998) exceeds 110 percent of the  
 4                   number of work relative value units  
 5                   (determined for such year).

6                   “(iii) *EXCLUDED SERVICES*.—For pur-  
 7                   poses of clause (ii), the services described in  
 8                   this clause are services which the Secretary  
 9                   determines at least 75 percent of which are  
 10                  provided under this title in an office set-  
 11                  ting.”.

12                  (b) *DELAY OF IMPLEMENTATION TO 1999; PHASEIN OF*  
 13 *IMPLEMENTATION*.—Section 1848(c)(2) (42 U.S.C. 1395w-  
 14 4(c)(2)), as amended by subsection (a), is amended—

15                  (1) in subparagraph (C)(ii)—

16                         (A) by striking “1998” each place it ap-  
 17                         pears and inserting “1999”, and

18                         (B) by inserting “, to the extent provided  
 19                         under subparagraph (H),” after “based” in the  
 20                         matter following subclause (II), and

21                  (2) by adding at the end the following new sub-  
 22                  paragraph:

23                         “(H) *3-YEAR ADDITIONAL PHASEIN OF RE-*  
 24                         *SOURCE-BASED PRACTICE EXPENSE UNITS*.—Not-  
 25                         withstanding subparagraph (C)(ii), the Sec-

1           retary shall implement the resource-based prac-  
2           tice expense unit methodology described in such  
3           subparagraph ratably over the 3-year period be-  
4           ginning with 1999 such that such methodology is  
5           fully implemented for 2001 and succeeding  
6           years.”.

7           (c) *REVIEW BY COMPTROLLER GENERAL.*—The Comp-  
8           troller General of the United States shall review and evalu-  
9           ate the proposed rule on resource-based methodology for  
10          practice expenses issued by the Health Care Financing Ad-  
11          ministration. The Comptroller General shall, within 6  
12          months of the date of the enactment of this Act, report to  
13          the Committee on Ways and Means of the House of Rep-  
14          resentatives and the Committee on Finance of the Senate  
15          the results of its evaluation, including an analysis of—

16                (1) the adequacy of the data used in preparing  
17          the rule,

18                (2) categories of allowable costs,

19                (3) methods for allocating direct and indirect ex-  
20          penses,

21                (4) the potential impact of the rule on bene-  
22          ficiary access to services, and

23                (5) any other matters related to the appropriate-  
24          ness of resource-based methodology for practice ex-  
25          penses.

1 *The Comptroller General shall consult with representatives*  
2 *of physicians' organizations with respect to matters of both*  
3 *data and methodology.*

4 *(d) CONSULTATION.—*

5 *(1) IN GENERAL.—The Secretary of Health and*  
6 *Human Services shall assemble a group of physicians*  
7 *with expertise in both surgical and nonsurgical areas*  
8 *(including primary care physicians and academics),*  
9 *accounting experts, and the chair of the Prospective*  
10 *Payment Review Commission (or its successor) to so-*  
11 *licit their individual views on whether sufficient data*  
12 *exist to allow the Health Care Financing Administra-*  
13 *tion to proceed with implementation of the rule de-*  
14 *scribed in subsection (c). After hearing the views of*  
15 *individual members of the group, the Secretary shall*  
16 *determine whether sufficient data exists to proceed*  
17 *with practice expense relative value determination*  
18 *and shall report on such views of the individual mem-*  
19 *bers to the committees described in subsection (c), in-*  
20 *cluding any recommendations for modifying such*  
21 *rule.*

22 *(2) ACTION.—If the Secretary determines under*  
23 *paragraph (1) that insufficient data exists or that the*  
24 *rule described in subsection (c) needs to be revised, the*

1        *Secretary shall provide for additional data collection*  
 2        *and such other actions to correct any deficiencies.*

3        *(e) APPLICATION OF RESOURCE-BASED METHODOL-*  
 4        *OGY TO MALPRACTICE RELATIVE VALUE UNITS.—Section*  
 5        *1848(c)(2)(C)(iii) (42 U.S.C. 1395w-4(c)(2)(C)(iii)) is*  
 6        *amended—*

7                *(1) by inserting “for years before 1999” before*  
 8                *“equal”, and*

9                *(2) by striking the period at the end and insert-*  
 10              *ing a comma and by adding at the end the following*  
 11              *flush matter:*

12                        *“and for years beginning with 1999 based*  
 13                        *on the malpractice expense resources in-*  
 14                        *volved in furnishing the service”.*

15        *(f) EFFECTIVE DATES.—*

16                *(1) IN GENERAL.—The amendments made by*  
 17                *this section shall apply to years beginning on and*  
 18                *after January 1, 1998.*

19                *(2) MALPRACTICE.—The amendments made by*  
 20                *subsection (e) shall apply to years beginning on and*  
 21                *after January 1, 1999.*

22        **SEC. 5506. INCREASED MEDICARE REIMBURSEMENT FOR**  
 23                        **NURSE PRACTITIONERS AND CLINICAL**  
 24                        **NURSE SPECIALISTS.**

25        *(a) REMOVAL OF RESTRICTIONS ON SETTINGS.—*

1           (1) *IN GENERAL.*—Clause (ii) of section  
2           1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended  
3           to read as follows:

4           “(ii) services which would be physicians’ services  
5           if furnished by a physician (as defined in subsection  
6           (r)(1)) and which are performed by a nurse practi-  
7           tioner or clinical nurse specialist (as defined in sub-  
8           section (aa)(5)) working in collaboration (as defined  
9           in subsection (aa)(6)) with a physician (as defined in  
10          subsection (r)(1)) which the nurse practitioner or  
11          clinical nurse specialist is legally authorized to per-  
12          form by the State in which the services are performed,  
13          and such services and supplies furnished as an inci-  
14          dent to such services as would be covered under sub-  
15          paragraph (A) if furnished incident to a physician’s  
16          professional service, but only if no facility or other  
17          provider charges or is paid any amounts with respect  
18          to the furnishing of such services;”.

19          (2) *CONFORMING AMENDMENTS.*—(A) Section  
20          1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K))  
21          is further amended—

22                 (i) in clause (i), by inserting “and such  
23                 services and supplies furnished as incident to  
24                 such services as would be covered under subpara-  
25                 graph (A) if furnished incident to a physician’s

1           *professional service; and” after “are performed,”;*  
2           *and*

3           *(ii) by striking clauses (iii) and (iv).*

4           *(B) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4))*  
5           *is amended by striking “clauses (i) or (iii) of sub-*  
6           *section (s)(2)(K)” and inserting “subsection*  
7           *(s)(2)(K)”.*

8           *(C) Section 1862(a)(14) (42 U.S.C.*  
9           *1395y(a)(14)) is amended by striking “section*  
10           *1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)” and inserting*  
11           *“section 1861(s)(2)(K)”.*

12           *(D) Section 1866(a)(1)(H) (42 U.S.C.*  
13           *1395cc(a)(1)(H)) is amended by striking “section*  
14           *1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)” and inserting*  
15           *“section 1861(s)(2)(K)”.*

16           *(E) Section 1888(e)(2)(A)(ii) (42 U.S.C.*  
17           *1395yy(e)(2)(A)(ii)), as added by section 5301(a), is*  
18           *amended by striking “through (iii)” and inserting*  
19           *“and (ii)”.*

20           ***(b) INCREASED PAYMENT.—***

21           ***(1) FEE SCHEDULE AMOUNT.—****Clause (O) of sec-*  
22           *tion 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended to*  
23           *read as follows: “(O) with respect to services described*  
24           *in section 1861(s)(2)(K)(ii) (relating to nurse practi-*  
25           *tioner or clinical nurse specialist services), the*

1        *amounts paid shall be equal to 80 percent of (i) the*  
2        *lesser of the actual charge or 85 percent of the fee*  
3        *schedule amount provided under section 1848, or (ii)*  
4        *in the case of services as an assistant at surgery, the*  
5        *lesser of the actual charge or 85 percent of the amount*  
6        *that would otherwise be recognized if performed by a*  
7        *physician who is serving as an assistant at surgery;*  
8        *and”.*

9            (2) *CONFORMING AMENDMENTS.—(A) Section*  
10        *1833(r) (42 U.S.C. 1395l(r)) is amended—*

11            *(i) in paragraph (1), by striking “section*  
12        *1861(s)(2)(K)(iii) (relating to nurse practitioner*  
13        *or clinical nurse specialist services provided in a*  
14        *rural area)” and inserting “section*  
15        *1861(s)(2)(K)(ii) (relating to nurse practitioner*  
16        *or clinical nurse specialist services)”;*

17            *(ii) by striking paragraph (2);*

18            *(iii) in paragraph (3), by striking “section*  
19        *1861(s)(2)(K)(iii)” and inserting “section*  
20        *1861(s)(2)(K)(ii)”;* *and*

21            *(iv) by redesignating paragraph (3) as*  
22        *paragraph (2).*

23            (B) *Section 1842(b)(12)(A) (42 U.S.C.*  
24        *1395u(b)(12)(A)) is amended, in the matter preceding*  
25        *clause (i), by striking “clauses (i), (ii), or (iv) of sec-*

1        *tion 1861(s)(2)(K) (relating to a physician assistants*  
 2        *and nurse practitioners)” and inserting “section*  
 3        *1861(s)(2)(K)(i) (relating to physician assistants)”.*

4        *(c) DIRECT PAYMENT FOR NURSE PRACTITIONERS*  
 5        *AND CLINICAL NURSE SPECIALISTS.—*

6                *(1) IN GENERAL.—Section 1832(a)(2)(B)(iv) (42*  
 7        *U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking*  
 8        *“provided in a rural area (as defined in section*  
 9        *1886(d)(2)(D))” and inserting “but only if no facility*  
 10        *or other provider charges or is paid any amounts*  
 11        *with respect to the furnishing of such services”.*

12                *(2) CONFORMING AMENDMENT.—Section*  
 13        *1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amend-*  
 14        *ed—*

15                        *(A) by striking “clauses (i), (ii), or (iv)”*  
 16                        *and inserting “clause (i)”;* and

17                        *(B) by striking “or nurse practitioner”.*

18        *(d) DEFINITION OF CLINICAL NURSE SPECIALIST*  
 19        *CLARIFIED.—Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5))*  
 20        *is amended—*

21                        *(1) by inserting “(A)” after “(5)”;*

22                        *(2) by striking “The term ‘physician assistant’”*  
 23        *and all that follows through “who performs” and in-*  
 24        *serting “The term ‘physician assistant’ and the term*  
 25        *‘nurse practitioner’ mean, for purposes of this title, a*

1     *physician assistant or nurse practitioner who per-*  
2     *forms”; and*

3             (3) *by adding at the end the following new sub-*  
4     *paragraph:*

5             “(B) *The term ‘clinical nurse specialist’ means, for*  
6     *purposes of this title, an individual who—*

7                 “(i) *is a registered nurse and is licensed to prac-*  
8     *tice nursing in the State in which the clinical nurse*  
9     *specialist services are performed; and*

10                “(ii) *holds a master’s degree in a defined clinical*  
11     *area of nursing from an accredited educational insti-*  
12     *tution.”.*

13             (e) *EFFECTIVE DATE.—The amendments made by this*  
14     *section shall apply with respect to services furnished and*  
15     *supplies provided on and after January 1, 1998.*

16     **SEC. 5507. INCREASED MEDICARE REIMBURSEMENT FOR**  
17             **PHYSICIAN ASSISTANTS.**

18             (a) *REMOVAL OF RESTRICTION ON SETTINGS.—Sec-*  
19     *tion 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)), as*  
20     *amended by the section 5506, is amended—*

21                 (1) *by striking “(I) in a hospital” and all that*  
22     *follows through “shortage area,” and*

23                 (2) *by adding at the end the following: “but only*  
24     *if no facility or other provider charges or is paid any*

1        *amounts with respect to the furnishing of such serv-*  
2        *ices,”.*

3        *(b) INCREASED PAYMENT.—Paragraph (12) of section*  
4        *1842(b) (42 U.S.C. 1395u(b)), as amended by section*  
5        *5506(b)(2)(B), is amended to read as follows:*

6        *“(12) With respect to services described in section*  
7        *1861(s)(2)(K)(i)—*

8                *“(A) payment under this part may only be made*  
9                *on an assignment-related basis; and*

10                *“(B) the amounts paid under this part shall be*  
11                *equal to 80 percent of (i) the lesser of the actual*  
12                *charge or 85 percent of the fee schedule amount pro-*  
13                *vided under section 1848 for the same service pro-*  
14                *vided by a physician who is not a specialist; or (ii)*  
15                *in the case of services as an assistant at surgery, the*  
16                *lesser of the actual charge or 85 percent of the amount*  
17                *that would otherwise be recognized if performed by a*  
18                *physician who is serving as an assistant at surgery.”.*

19        *(c) REMOVAL OF RESTRICTION ON EMPLOYMENT RE-*  
20        *LATIONSHIP.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6))*  
21        *is amended by adding at the end the following new sentence:*  
22        *“For purposes of clause (C) of the first sentence of this para-*  
23        *graph, an employment relationship may include any inde-*  
24        *pendent contractor arrangement, and employer status shall*

1 *be determined in accordance with the law of the State in*  
 2 *which the services described in such clause are performed.”.*

3 (d) *EFFECTIVE DATE.*—*The amendments made by this*  
 4 *section shall apply with respect to services furnished and*  
 5 *supplies provided on and after January 1, 1998.*

## 6 **CHAPTER 2—OTHER PAYMENT**

### 7 **PROVISIONS**

#### 8 **SEC. 5521. REDUCTION IN UPDATES TO PAYMENT AMOUNTS**

#### 9 **FOR CLINICAL DIAGNOSTIC LABORATORY**

#### 10 **TESTS; STUDY ON LABORATORY SERVICES.**

11 (a) *CHANGE IN UPDATE.*—*Section 1833(h)(2)(A)(ii)*  
 12 *(42 U.S.C. 1395l(h)(2)(A)(ii)) is amended by striking*  
 13 *“and” at the end of subclause (III), by striking the period*  
 14 *at the end of subclause (IV) and inserting “, and”, and*  
 15 *by adding at the end the following:*

16 *“(V) the annual adjustment in the*  
 17 *fee schedules determined under clause*  
 18 *(i) for each of the years 1998 through*  
 19 *2002 shall be reduced (but not below*  
 20 *zero) by 2.0 percentage points.”.*

21 (b) *LOWERING CAP ON PAYMENT AMOUNTS.*—*Section*  
 22 *1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—*

23 (1) *in clause (vi), by striking “and” at the end;*

24 (2) *in clause (vii)—*

1           (A) by inserting “and before January 1,  
2           1998,” after “1995,” and

3           (B) by striking the period at the end and  
4           inserting “, and”; and

5           (3) by adding at the end the following new  
6           clause:

7           “(viii) after December 31, 1997, is equal to 74  
8           percent of such median.”.

9           (c) *STUDY AND REPORT ON CLINICAL LABORATORY*  
10          *SERVICES.*—

11           (1) *IN GENERAL.*—*The Secretary shall request*  
12          *the Institute of Medicine of the National Academy of*  
13          *Sciences to conduct a study of payments under part*  
14          *B of title XVIII of the Social Security Act for clinical*  
15          *laboratory services. The study shall include a review*  
16          *of the adequacy of the current methodology and rec-*  
17          *ommendations regarding alternative payment sys-*  
18          *tems. The study shall also analyze and discuss the re-*  
19          *lationship between such payment systems and access*  
20          *to high quality laboratory services for medicare bene-*  
21          *ficiaries, including availability and access to new*  
22          *testing methodologies.*

23           (2) *REPORT TO CONGRESS.*—*The Secretary shall,*  
24          *not later than 2 years after the date of enactment of*  
25          *this section, report to the appropriate committees of*

1 Congress the results of the study described in para-  
2 graph (1), including any recommendations for legisla-  
3 tion.

4 **SEC. 5522. IMPROVEMENTS IN ADMINISTRATION OF LAB-**  
5 **ORATORY SERVICES BENEFIT.**

6 (a) *SELECTION OF REGIONAL CARRIERS.*—

7 (1) *IN GENERAL.*—*The Secretary of Health and*  
8 *Human Services (in this section referred to as the*  
9 *“Secretary”)* shall—

10 (A) *divide the United States into no more*  
11 *than 5 regions, and*

12 (B) *designate a single carrier for each such*  
13 *region,*

14 *for the purpose of payment of claims under part B*  
15 *of title XVIII of the Social Security Act with respect*  
16 *to clinical diagnostic laboratory services furnished on*  
17 *or after such date (not later than January 1, 1999)*  
18 *as the Secretary specifies.*

19 (2) *DESIGNATION.*—*In designating such carriers,*  
20 *the Secretary shall consider, among other criteria—*

21 (A) *a carrier’s timeliness, quality, and ex-*  
22 *perience in claims processing, and*

23 (B) *a carrier’s capacity to conduct elec-*  
24 *tronic data interchange with laboratories and*  
25 *data matches with other carriers.*

1           (3) *SINGLE DATA RESOURCE.*—*The Secretary*  
2           *shall select one of the designated carriers to serve as*  
3           *a central statistical resource for all claims informa-*  
4           *tion relating to such clinical diagnostic laboratory*  
5           *services handled by all the designated carriers under*  
6           *such part.*

7           (4) *ALLOCATION OF CLAIMS.*—*The allocation of*  
8           *claims for clinical diagnostic laboratory services to*  
9           *particular designated carriers shall be based on*  
10          *whether a carrier serves the geographic area where the*  
11          *laboratory specimen was collected or other method*  
12          *specified by the Secretary.*

13          (5) *TEMPORARY EXCEPTION.*—*Paragraph (1)*  
14          *shall not apply with respect to clinical diagnostic lab-*  
15          *oratory services furnished by independent physician*  
16          *offices until such time as the Secretary determines*  
17          *that such offices would not be unduly burdened by the*  
18          *application of billing responsibilities with respect to*  
19          *more than one carrier.*

20          (b) *ADOPTION OF UNIFORM POLICIES FOR CLINICAL*  
21          *LABORATORY BENEFITS.*—

22                 (1) *IN GENERAL.*—*Not later than July 1, 1998,*  
23                 *the Secretary shall first adopt, consistent with para-*  
24                 *graph (2), uniform coverage, administration, and*  
25                 *payment policies for clinical diagnostic laboratory*

1        *tests under part B of title XVIII of the Social Secu-*  
2        *urity Act, using a negotiated rulemaking process under*  
3        *subchapter III of chapter 5 of title 5, United States*  
4        *Code.*

5            (2) *CONSIDERATIONS IN DESIGN OF UNIFORM*  
6        *POLICIES.—The policies under paragraph (1) shall be*  
7        *designed to promote program integrity and uniform-*  
8        *ity and simplify administrative requirements with re-*  
9        *spect to clinical diagnostic laboratory tests payable*  
10       *under such part in connection with the following:*

11            (A) *Beneficiary information required to be*  
12        *submitted with each claim or order for labora-*  
13        *tory services.*

14            (B) *Physicians' obligations regarding docu-*  
15        *mentation requirements and recordkeeping.*

16            (C) *Procedures for filing claims and for*  
17        *providing remittances by electronic media.*

18            (D) *The documentation of medical necessity.*

19            (E) *Limitation on frequency of coverage for*  
20        *the same tests performed on the same individual.*

21            (3) *CHANGES IN LABORATORY POLICIES PENDING*  
22        *ADOPTION OF UNIFORM POLICY.—During the period*  
23        *that begins on the date of the enactment of this Act*  
24        *and ends on the date the Secretary first implements*  
25        *uniform policies pursuant to regulations promulgated*

1        *under this subsection, a carrier under such part may*  
2        *implement changes relating to requirements for the*  
3        *submission of a claim for clinical diagnostic labora-*  
4        *tory tests.*

5            *(4) USE OF INTERIM POLICIES.—After the date*  
6        *the Secretary first implements such uniform policies,*  
7        *the Secretary shall permit any carrier to develop and*  
8        *implement interim policies of the type described in*  
9        *paragraph (1), in accordance with guidelines estab-*  
10       *lished by the Secretary, in cases in which a uniform*  
11       *national policy has not been established under this*  
12       *subsection and there is a demonstrated need for a pol-*  
13       *icy to respond to aberrant utilization or provision of*  
14       *unnecessary services. Except as the Secretary specifi-*  
15       *cally permits, no policy shall be implemented under*  
16       *this paragraph for a period of longer than 2 years.*

17           *(5) INTERIM NATIONAL GUIDELINES.—After the*  
18       *date the Secretary first designates regional carriers*  
19       *under subsection (a), the Secretary shall establish a*  
20       *process under which designated carriers can collec-*  
21       *tively develop and implement interim national guide-*  
22       *lines of the type described in paragraph (1). No such*  
23       *policy shall be implemented under this paragraph for*  
24       *a period of longer than 2 years.*

1           (6) *BIENNIAL REVIEW PROCESS.*—Not less often  
2           than once every 2 years, the Secretary shall solicit  
3           and review comments regarding changes in the uni-  
4           form policies established under this subsection. As  
5           part of such biennial review process, the Secretary  
6           shall specifically review and consider whether to in-  
7           corporate or supersede interim, regional, or national  
8           policies developed under paragraph (4) or (5). Based  
9           upon such review, the Secretary may provide for ap-  
10          propriate changes in the uniform policies previously  
11          adopted under this subsection.

12          (7) *REQUIREMENT AND NOTICE.*—The Secretary  
13          shall ensure that any guidelines adopted under para-  
14          graph (3), (4), or (5) shall apply to all laboratory  
15          claims payable under part B of title XVIII of the So-  
16          cial Security Act, and shall provide for advance no-  
17          tice to interested parties and a 45-day period in  
18          which such parties may submit comments on the pro-  
19          posed change.

20          (c) *INCLUSION OF LABORATORY REPRESENTATIVE ON*  
21 *CARRIER ADVISORY COMMITTEES.*—The Secretary shall di-  
22          rect that any advisory committee established by such a car-  
23          rier, to advise with respect to coverage, administration or  
24          payment policies under part B of title XVIII of the Social  
25          Security Act, shall include an individual to represent the

1 *interest and views of independent clinical laboratories and*  
2 *such other laboratories as the Secretary deems appropriate.*  
3 *Such individual shall be selected by such committee from*  
4 *among nominations submitted by national and local orga-*  
5 *nizations that represent independent clinical laboratories.*

6 **SEC. 5523. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.**

7 *(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF*  
8 *DURABLE MEDICAL EQUIPMENT.—*

9 *(1) FREEZE IN UPDATE FOR COVERED ITEMS.—*

10 *Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is*  
11 *amended to read as follows:*

12 *“(14) COVERED ITEM UPDATE.—In this sub-*  
13 *section—*

14 *“(A) IN GENERAL.—The term ‘covered item*  
15 *update’ means, with respect to any year, the per-*  
16 *centage increase in the consumer price index for*  
17 *all urban consumers (U.S. city average) for the*  
18 *12-month period ending with June of the pre-*  
19 *vious year.*

20 *“(B) REDUCTION FOR CERTAIN YEARS.—In*  
21 *the case of each of the years 1998 through 2002,*  
22 *the covered item update under subparagraph (A)*  
23 *shall be reduced (but not below zero) by 2.0 per-*  
24 *centage points.”.*

1           (2) *UPDATE FOR ORTHOTICS AND PROSTHET-*  
2           *ICS.—Section 1834(h)(4)(A) (42 U.S.C.*  
3           *1395m(h)(4)(A)) is amended to read as follows:*

4                     “(A) *the term ‘applicable percentage in-*  
5                     *crease’ means, with respect to any year, the per-*  
6                     *centage increase in the consumer price index for*  
7                     *all urban consumers (U.S. city average) for the*  
8                     *12-month period ending with June of the pre-*  
9                     *vious year, except that in each of the years 1998*  
10                    *through 2000, such increase shall be reduced (but*  
11                    *not below zero) by 2.0 percentage points;”.*

12           (3) *EFFECTIVE DATE.—The amendments made*  
13           *by this subsection applies to items furnished on and*  
14           *after January 1, 1998.*

15           (b) *REDUCTION IN INCREASE FOR PARENTERAL AND*  
16           *ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—The*  
17           *reasonable charge under part B of title XVIII of the Social*  
18           *Security Act for parenteral and enteral nutrients, supplies,*  
19           *and equipment furnished during each of the years 1998*  
20           *through 2002, shall not exceed the reasonable charge for such*  
21           *items furnished during the previous year (after application*  
22           *of this subsection), increased by the percentage increase in*  
23           *the consumer price index for all urban consumers (United*  
24           *States city average) for the 12-month period ending with*

1 *June of the previous year reduced (but not below zero) by*  
2 *2.0 percentage points.*

3 **SEC. 5524. OXYGEN AND OXYGEN EQUIPMENT.**

4 *(a) IN GENERAL.—Section 1834(a)(9)(B) (42 U.S.C.*  
5 *1395m(a)(9)(B)) is amended—*

6 *(1) by striking “and” at the end of clause (iii);*

7 *(2) in clause (iv)—*

8 *(A) by striking “a subsequent year” and in-*  
9 *serting “1995, 1996, and 1997”, and*

10 *(B) by striking the period at the end and*  
11 *inserting a semicolon; and*

12 *(3) by adding at the end the following new*  
13 *clauses:*

14 *“(v) in 1998, 75 percent of the amount*  
15 *determined under this subparagraph for*  
16 *1997;*

17 *“(vi) in 1999, 62.5 percent of the*  
18 *amount determined under this subpara-*  
19 *graph for 1997; and*

20 *“(vii) for each subsequent year, the*  
21 *amount determined under this subpara-*  
22 *graph for the preceding year increased by*  
23 *the covered item update for such subsequent*  
24 *year.”.*

1           **(b) UPGRADED DURABLE MEDICAL EQUIPMENT.**—  
2 *Section 1834(a) (42 U.S.C. 1395m(a)) is amended by in-*  
3 *serting after paragraph (15) the following new paragraph:*

4           **“(16) CERTAIN UPGRADED ITEMS.**—

5                   **“(A) INDIVIDUAL’S RIGHT TO CHOOSE UP-**  
6 *GRADED ITEM.*—*Notwithstanding any other pro-*  
7 *vision of law, effective on the date on which the*  
8 *Secretary issues regulations under subparagraph*  
9 *(C), an individual may purchase or rent from a*  
10 *supplier an item of upgraded durable medical*  
11 *equipment for which payment would be made*  
12 *under this subsection if the item were a standard*  
13 *item.*

14                   **“(B) PAYMENTS TO SUPPLIER.**—*In the case*  
15 *of the purchase or rental of an upgraded item*  
16 *under subparagraph (A)—*

17                           **“(i) the supplier shall receive payment**  
18 *under this subsection with respect to such*  
19 *item as if such item were a standard item;*  
20 *and*

21                           **“(ii) the individual purchasing or**  
22 *renting the item shall pay the supplier an*  
23 *amount equal to the difference between the*  
24 *supplier’s charge and the amount under*  
25 *clause (i).*

1            *In no event may the supplier’s charge for an up-*  
2            *graded item exceed the applicable fee schedule*  
3            *amount (if any) for such item.*

4            “(C)    *CONSUMER    PROTECTION    SAFE-*  
5            *GUARDS.—The Secretary shall issue regulations*  
6            *providing for consumer protection standards*  
7            *with respect to the furnishing of upgraded equip-*  
8            *ment under subparagraph (A). Such regulations*  
9            *shall provide for—*

10            “(i)    *determination of fair market*  
11            *prices with respect to an upgraded item;*

12            “(ii)   *full disclosure of the availability*  
13            *and price of standard items and proof of re-*  
14            *ceipt of such disclosure information by the*  
15            *beneficiary before the furnishing of the up-*  
16            *graded item;*

17            “(iii)   *conditions of participation for*  
18            *suppliers in the simplified billing arrange-*  
19            *ment;*

20            “(iv)   *sanctions of suppliers who are de-*  
21            *termined to engage in coercive or abusive*  
22            *practices, including exclusion; and*

23            “(v)    *such other safeguards as the Sec-*  
24            *retary determines are necessary.”.*

1           (c) *ESTABLISHMENT OF CLASSES FOR PAYMENT.*—  
2 *Section 1848(a)(9) (42 U.S.C. 1395m(a)(9)) is amended by*  
3 *adding at the end the following:*

4                   “(D) *AUTHORITY TO CREATE CLASSES.*—

5                           “(i) *IN GENERAL.*—*Subject to clause*  
6 *(ii), the Secretary may establish separate*  
7 *classes for any item of oxygen and oxygen*  
8 *equipment and separate national limited*  
9 *monthly payment rates for each of such*  
10 *classes.*

11                           “(ii) *BUDGET NEUTRALITY.*—*The Sec-*  
12 *retary may take actions under clause (i)*  
13 *only to the extent such actions do not result*  
14 *in expenditures for any year to be more or*  
15 *less than the expenditures which would have*  
16 *been made if such actions had not been*  
17 *taken.”.*

18           (d) *STANDARDS AND ACCREDITATION.*—*The Secretary*  
19 *shall as soon as practicable establish service standards and*  
20 *accreditation requirements for persons seeking payment*  
21 *under part B of title XVIII of the Social Security Act for*  
22 *the providing of oxygen and oxygen equipment to bene-*  
23 *ficiaries within their homes.*

24           (e) *ACCESS TO HOME OXYGEN EQUIPMENT.*—

1           (1) *STUDY.*—*The Comptroller General of the*  
2           *United States shall study issues relating to access to*  
3           *home oxygen equipment and shall, within 6 months*  
4           *after the date of the enactment of this Act, report to*  
5           *the Committee on Ways and Means of the House of*  
6           *Representatives and the Committee on Finance of the*  
7           *Senate the results of the study, including rec-*  
8           *ommendations (if any) for legislation.*

9           (2) *PEER REVIEW EVALUATION.*—*The Secretary*  
10          *of Health and Human Services shall arrange for peer*  
11          *review organizations established under section 1154 of*  
12          *the Social Security Act to evaluate access to, and*  
13          *quality of, home oxygen equipment.*

14          (f) *DEMONSTRATION PROJECT.*—*Not later than 6*  
15          *months after the date of enactment of this Act, the Secretary*  
16          *shall, in consultation with appropriate organizations, initi-*  
17          *ate a demonstration project in which the Secretary utilizes*  
18          *a competitive bidding process for the furnishing of home*  
19          *oxygen equipment to medicare beneficiaries under title*  
20          *XVIII of the Social Security Act.*

21          (g) *EFFECTIVE DATE.*—

22                 (1) *OXYGEN.*—*The amendments made by sub-*  
23                 *section (a) shall apply to items furnished on and*  
24                 *after January 1, 1998.*

1           (2) *OTHER PROVISIONS.*—*The amendments made*  
2           *by this section other than subsection (a) shall take ef-*  
3           *fect on the date of the enactment of this Act.*

4 **SEC. 5525. UPDATES FOR AMBULATORY SURGICAL SERV-**  
5           **ICES.**

6           Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is  
7           amended by inserting at the end the following: “In each  
8           of the fiscal years 1998 through 2002, the increase under  
9           this subparagraph shall be reduced (but not below zero) by  
10          2.0 percentage points.”

11 **SEC. 5526. REIMBURSEMENT FOR DRUGS AND**  
12          **BIOLOGICALS.**

13          (a) *IN GENERAL.*—Section 1842 (42 U.S.C. 1395u) is  
14          amended by inserting after subsection (n) the following new  
15          subsection:

16          “(o)(1) *If a physician’s, supplier’s, or any other per-*  
17          *son’s bill or request for payment for services includes a*  
18          *charge for a drug or biological for which payment may be*  
19          *made under this part and the drug or biological is not paid*  
20          *on a cost or prospective payment basis as otherwise pro-*  
21          *vided in this part, the amount payable for the drug or bio-*  
22          *logical is equal to 95 percent of the average wholesale price,*  
23          *as specified by the Secretary.*

24          “(2)(A) *In the case of a drug or biological for which*  
25          *payment was under this part on May 1, 1997, the amount*

1 *determined under paragraph (1) for any drug or biological*  
2 *shall not exceed—*

3           “(i) *in the case of 1998, the amount of the pay-*  
4 *ment under this part on May 1, 1997, and*

5           “(ii) *in the case of 1999 and each succeeding*  
6 *year, the amount determined under this subpara-*  
7 *graph for the previous year, increased by the percent-*  
8 *age increase in the consumer price index for all urban*  
9 *consumers (U.S. city average) for the 12-month pe-*  
10 *riod ending with June of the previous year.*

11          “(B) *In the case of a drug or biological not described*  
12 *in subparagraph (A), the amount determined under para-*  
13 *graph (1) for any year following the first year for which*  
14 *payment is made under this part for such drug or biological*  
15 *shall not exceed the amount payable under this part (after*  
16 *application of this subparagraph) for the previous year, in-*  
17 *creased by the percentage increase in the consumer price*  
18 *index for all urban consumers (U.S. city average) for the*  
19 *12-month period ending with June of the previous year.*

20          “(3) *If payment for a drug or biological is made to*  
21 *a licensed pharmacy approved to dispense drugs or*  
22 *biologicals under this part, the Secretary shall pay a dis-*  
23 *persing fee (less the applicable deductible and insurance*  
24 *amounts) to the pharmacy, as the Secretary determines ap-*  
25 *propriate.*

1       “(4) *The Secretary shall conduct such studies or sur-*  
2 *veys as are necessary to determine the average wholesale*  
3 *price (and such other price as the Secretary determines ap-*  
4 *propriate) of any drug or biological for purposes of para-*  
5 *graph (1). The Secretary shall, not later than 6 months*  
6 *after the date of the enactment of this subsection, report to*  
7 *the appropriate committees of Congress the results of the*  
8 *studies and surveys conducted under this paragraph.”.*

9       (b) *EFFECTIVE DATE.*—*The amendments made by sub-*  
10 *section (a) apply to drugs and biologicals furnished on or*  
11 *after January 1, 1998.*

12           **CHAPTER 3—PART B PREMIUM AND**  
13           **RELATED PROVISIONS**

14       **SEC. 5541. PART B PREMIUM.**

15       (a) *IN GENERAL.*—*Section 1839(a)(3) (42 U.S.C.*  
16 *1395r(a)(3)) is amended by striking the first 3 sentences*  
17 *and inserting the following: “The Secretary, during Sep-*  
18 *tember of each year, shall determine and promulgate a*  
19 *monthly premium rate for the succeeding calendar year that*  
20 *is equal to 50 percent of the monthly actuarial rate for en-*  
21 *rollees age 65 and over, determined according to paragraph*  
22 *(1), for that succeeding calendar year.”.*

23       (b) *CONFORMING AND TECHNICAL AMENDMENTS.*—

24           (1) *SECTION 1839.*—*Section 1839 (42 U.S.C.*  
25       *1395r) is amended—*

1           (A) in subsection (a)(2), by striking “(b)  
2           and (e)” and inserting “(b), (c), and (f)”,

3           (B) in the last sentence of subsection  
4           (a)(3)—

5                   (i) by inserting “rate” after “pre-  
6                   mium”, and

7                   (ii) by striking “and the derivation of  
8                   the dollar amounts specified in this para-  
9                   graph”,

10           (C) by striking subsection (e), and

11           (D) by redesignating subsection (g) as sub-  
12           section (e) and inserting that subsection after  
13           subsection (d).

14           (2) SECTION 1844.—Subparagraphs (A)(i) and  
15           (B)(i) of section 1844(a)(1) (42 U.S.C. 1395w(a)(1))  
16           are each amended by striking “or 1839(e), as the case  
17           may be”.

18 **SEC. 5542. INCOME-RELATED REDUCTION IN MEDICARE**

19                   **SUBSIDY.**

20           (a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is  
21           amended by adding at the end the following:

22                   “(h)(1) Notwithstanding the previous subsections of  
23                   this section, in the case of an individual whose modified  
24                   adjusted gross income for a taxable year ending with or  
25                   within a calendar year (as initially determined by the Sec-

1 *retary in accordance with paragraph (3)) exceeds the*  
2 *threshold amount described in paragraph (5)(B), the Sec-*  
3 *retary shall increase the amount of the monthly premium*  
4 *for months in the calendar year by an amount equal to*  
5 *the difference between—*

6           “(A) 200 percent of the monthly actuarial rate  
7           for enrollees age 65 and over as determined under  
8           subsection (a)(1) for that calendar year; and

9           “(B) the total of the monthly premiums paid by  
10          the individual under this section (determined without  
11          regard to subsection (b)) during such calendar year.

12          “(2) In the case of an individual described in para-  
13 *graph (1) whose modified adjusted gross income exceeds the*  
14 *threshold amount by less than \$50,000, the amount of the*  
15 *increase in the monthly premium applicable under para-*  
16 *graph (1) shall be an amount which bears the same ratio*  
17 *to the amount of the increase described in paragraph (1)*  
18 *(determined without regard to this paragraph) as such ex-*  
19 *cess bears to \$50,000.*

20          “(3) The Secretary shall make an initial determina-  
21 *tion of the amount of an individual’s modified adjusted*  
22 *gross income for a taxable year ending with or within a*  
23 *calendar year for purposes of this subsection as follows:*

24               “(A) Not later than September 1 of the year pre-  
25               ceding the year, the Secretary shall provide notice to

1        *each individual whom the Secretary finds (on the*  
2        *basis of the individual's actual modified adjusted*  
3        *gross income for the most recent taxable year for*  
4        *which such information is available or other informa-*  
5        *tion provided to the Secretary by the Secretary of the*  
6        *Treasury) will be subject to an increase under this*  
7        *subsection that the individual will be subject to such*  
8        *an increase, and shall include in such notice the Sec-*  
9        *retary's estimate of the individual's modified adjusted*  
10       *gross income for the year.*

11            *“(B) If, during the 30-day period beginning on*  
12        *the date notice is provided to an individual under*  
13        *subparagraph (A), the individual provides the Sec-*  
14        *retary with information on the individual's antici-*  
15        *pated modified adjusted gross income for the year, the*  
16        *amount initially determined by the Secretary under*  
17        *this paragraph with respect to the individual shall be*  
18        *based on the information provided by the individual.*

19            *“(C) If an individual does not provide the Sec-*  
20        *retary with information under subparagraph (B), the*  
21        *amount initially determined by the Secretary under*  
22        *this paragraph with respect to the individual shall be*  
23        *the amount included in the notice provided to the in-*  
24        *dividual under subparagraph (A).*

1       “(4)(A) If the Secretary determines (on the basis of  
2 final information provided by the Secretary of the Treas-  
3 ury) that the amount of an individual’s actual modified  
4 adjusted gross income for a taxable year ending with or  
5 within a calendar year is less than or greater than the  
6 amount initially determined by the Secretary under para-  
7 graph (3), the Secretary shall increase or decrease the  
8 amount of the individual’s monthly premium under this  
9 section (as the case may be) for months during the following  
10 calendar year by an amount equal to  $\frac{1}{12}$  of the difference  
11 between—

12               “(i) the total amount of all monthly premiums  
13 paid by the individual under this section during the  
14 previous calendar year; and

15               “(ii) the total amount of all such premiums  
16 which would have been paid by the individual during  
17 the previous calendar year if the amount of the indi-  
18 vidual’s modified adjusted gross income initially de-  
19 termined under paragraph (3) were equal to the ac-  
20 tual amount of the individual’s modified adjusted  
21 gross income determined under this paragraph.

22       “(B)(i) In the case of an individual for whom the  
23 amount initially determined by the Secretary under para-  
24 graph (3) is based on information provided by the individ-  
25 ual under subparagraph (B) of such paragraph, if the Sec-

1    *retary determines under subparagraph (A) that the amount*  
2    *of the individual's actual modified adjusted gross income*  
3    *for a taxable year is greater than the amount initially de-*  
4    *termined under paragraph (3), the Secretary shall increase*  
5    *the amount otherwise determined for the year under sub-*  
6    *paragraph (A) by interest in an amount equal to the sum*  
7    *of the amounts determined under clause (ii) for each of the*  
8    *months described in clause (ii).*

9           *“(ii) Interest shall be computed for any month in an*  
10    *amount determined by applying the underpayment rate es-*  
11    *tablished under section 6621 of the Internal Revenue Code*  
12    *of 1986 (compounded daily) to any portion of the difference*  
13    *between the amount initially determined under paragraph*  
14    *(3) and the amount determined under subparagraph (A)*  
15    *for the period beginning on the first day of the month begin-*  
16    *ning after the individual provided information to the Sec-*  
17    *retary under subparagraph (B) of paragraph (3) and end-*  
18    *ing 30 days before the first month for which the individual's*  
19    *monthly premium is increased under this paragraph.*

20           *“(iii) Interest shall not be imposed under this subpara-*  
21    *graph if the amount of the individual's modified adjusted*  
22    *gross income provided by the individual under subpara-*  
23    *graph (B) of paragraph (3) was not less than the individ-*  
24    *ual's modified adjusted gross income determined on the*  
25    *basis of information shown on the return of tax imposed*

1 *by chapter 1 of the Internal Revenue Code of 1986 for the*  
2 *taxable year involved.*

3       “(C) *In the case of an individual who is not enrolled*  
4 *under this part for any calendar year for which the individ-*  
5 *ual’s monthly premium under this section for months dur-*  
6 *ing the year would be increased pursuant to subparagraph*  
7 *(A) if the individual were enrolled under this part for the*  
8 *year, the Secretary may take such steps as the Secretary*  
9 *considers appropriate to recover from the individual the*  
10 *total amount by which the individual’s monthly premium*  
11 *for months during the year would have been increased*  
12 *under subparagraph (A) if the individual were enrolled*  
13 *under this part for the year.*

14       “(D) *In the case of a deceased individual for whom*  
15 *the amount of the monthly premium under this section for*  
16 *months in a year would have been decreased pursuant to*  
17 *subparagraph (A) if the individual were not deceased, the*  
18 *Secretary shall make a payment to the individual’s surviv-*  
19 *ing spouse (or, in the case of an individual who does not*  
20 *have a surviving spouse, to the individual’s estate) in an*  
21 *amount equal to the difference between—*

22               “(i) *the total amount by which the individual’s*  
23 *premium would have been decreased for all months*  
24 *during the year pursuant to subparagraph (A); and*

1           “(ii) the amount (if any) by which the individ-  
2           ual’s premium was decreased for months during the  
3           year pursuant to subparagraph (A).

4           “(5) In this subsection, the following definitions apply:

5           “(A) The term ‘modified adjusted gross income’  
6           means adjusted gross income (as defined in section 62  
7           of the Internal Revenue Code of 1986)—

8           “(i) determined without regard to sections  
9           135, 911, 931, and 933 of such Code, and

10           “(ii) increased by the amount of interest re-  
11           ceived or accrued by the taxpayer during the  
12           taxable year which is exempt from tax under  
13           such Code.

14           “(B) The term ‘threshold amount’ means—

15           “(i) except as otherwise provided in this  
16           paragraph, \$50,000,

17           “(ii) \$75,000, in the case of a joint return  
18           (as defined in section 7701(a)(38) of such Code),  
19           and

20           “(iii) zero in the case of a taxpayer who—

21           “(I) is married at the close of the tax-  
22           able year but does not file a joint return (as  
23           so defined) for such year, and

24           “(II) does not live apart from his  
25           spouse at all times during the taxable year.

1       “(6)(A) *The Secretary shall transfer amounts received*  
2 *pursuant to this subsection to the Federal Hospital Insur-*  
3 *ance Trust Fund.*

4       “(B) *In applying section 1844(a), amounts attrib-*  
5 *utable to clause (i) shall not be counted in determining the*  
6 *dollar amount of the premium per enrollee under para-*  
7 *graph (1)(A) or (1)(B).”.*

8       (b) *CONFORMING AMENDMENTS.—(1) Section 1839 (42*  
9 *U.S.C. 1395r) is amended—*

10           (A) *in subsection (a)(2), by inserting “or section*  
11 *subsection (h)” after “subsections (b) and (e)”;*

12           (B) *in subsection (a)(3) of section 1839(a), by*  
13 *inserting “or subsection (h)” after “subsection (e)”;*

14           (C) *in subsection (b), inserting “(and as in-*  
15 *creased under subsection (h))” after “subsection (a) or*  
16 *(e)”;* and

17           (D) *in subsection (f), by striking “if an individ-*  
18 *ual” and inserting the following: “if an individual*  
19 *(other than an individual subject to an increase in*  
20 *the monthly premium under this section pursuant to*  
21 *subsection (h))”.*

22       (2) *Section 1840(c) (42 U.S.C. 1395r(c)) is amended*  
23 *by inserting “or an individual determines that the estimate*  
24 *of modified adjusted gross income used in determining*  
25 *whether the individual is subject to an increase in the*

1 *monthly premium under section 1839 pursuant to sub-*  
2 *section (h) of such section (or in determining the amount*  
3 *of such increase) is too low and results in a portion of the*  
4 *premium not being deducted,” before “he may”.*

5 *(c) REPORTING REQUIREMENTS FOR SECRETARY OF*  
6 *THE TREASURY.—*

7 *(1) IN GENERAL.—Subsection (l) of section 6103*  
8 *of the Internal Revenue Code of 1986 (relating to con-*  
9 *fidentiality and disclosure of returns and return in-*  
10 *formation) is amended by adding at the end the fol-*  
11 *lowing new paragraph:*

12 *“(16) DISCLOSURE OF RETURN INFORMATION TO*  
13 *CARRY OUT INCOME-RELATED REDUCTION IN MEDI-*  
14 *CARE PART B PREMIUM.—*

15 *“(A) IN GENERAL.—The Secretary may,*  
16 *upon written request from the Secretary of*  
17 *Health and Human Services, disclose to officers*  
18 *and employees of the Health Care Financing Ad-*  
19 *ministration return information with respect to*  
20 *a taxpayer who is required to pay a monthly*  
21 *premium under section 1839 of the Social Secu-*  
22 *rity Act. Such return information shall be lim-*  
23 *ited to—*

24 *“(i) taxpayer identity information*  
25 *with respect to such taxpayer,*

1                   “(ii) the filing status of such taxpayer,

2                   “(iii) the adjusted gross income of such  
3 taxpayer,

4                   “(iv) the amounts excluded from such  
5 taxpayer’s gross income under sections 135  
6 and 911,

7                   “(v) the interest received or accrued  
8 during the taxable year which is exempt  
9 from the tax imposed by chapter 1 to the ex-  
10 tent such information is available, and

11                   “(vi) the amounts excluded from such  
12 taxpayer’s gross income by sections 931 and  
13 933 to the extent such information is avail-  
14 able.

15                   “(B) RESTRICTION ON USE OF DISCLOSED  
16 INFORMATION.—Return information disclosed  
17 under subparagraph (A) may be used by officers  
18 and employees of the Health Care Financing Ad-  
19 ministration only for the purposes of, and to the  
20 extent necessary in, establishing the appropriate  
21 monthly premium under section 1839 of the So-  
22 cial Security Act.”.

23                   (2) CONFORMING AMENDMENT.—Paragraphs  
24 (3)(A) and (4) of section 6103(p) of such Code are

1 *each amended by striking “or (15)” each place it ap-*  
2 *pears and inserting “(15), or (16)”.*

3 *(d) EFFECTIVE DATE.—*

4 *(1) IN GENERAL.—The amendments made by*  
5 *subsections (a) and (b) shall apply to the monthly*  
6 *premium under section 1839 of the Social Security*  
7 *Act for months beginning with January 1998.*

8 *(2) INFORMATION FOR PRIOR YEARS.—The Sec-*  
9 *retary of Health and Human Services may request*  
10 *information under section 6013(l)(16) of the Social*  
11 *Security Act (as added by subsection (c)) for taxable*  
12 *years beginning after December 31, 1994.*

13 **SEC. 5543. DEMONSTRATION PROJECT ON INCOME-RELAT-**  
14 **ED PART B DEDUCTIBLE.**

15 *(a) ESTABLISHMENT OF PROJECT.—*

16 *(1) IN GENERAL.—Notwithstanding any other*  
17 *provision of law, the Secretary of Health and Human*  
18 *Services (in this section referred to as the “Sec-*  
19 *retary”) shall conduct a demonstration project (in*  
20 *this section referred to as the “project”) in which in-*  
21 *dividuals otherwise responsible for an income-related*  
22 *premium by reason of section 1839(h) of the Social*  
23 *Security Act (42 U.S.C. 1395r(h)) (as added by sec-*  
24 *tion 5542 of this Act) would instead be responsible for*  
25 *an income-related deductible using the same income*

1 *limits and administrative procedures provided for in*  
2 *such section 1839(h).*

3 (2) *SITES.—The Secretary shall conduct the*  
4 *project in a representative number of sites and shall*  
5 *include a sufficient number of individuals in the*  
6 *project to ensure that the project produces statistically*  
7 *satisfactory findings.*

8 (3) *PARTICIPATION.—*

9 (A) *IN GENERAL.—Participation in the*  
10 *project shall be on a voluntary basis.*

11 (B) *MEDIGAP.—No individual shall be eli-*  
12 *gible to participate in the project if such individ-*  
13 *ual is covered under a medicare supplemental*  
14 *policy under section 1882 of the Social Security*  
15 *Act (42 U.S.C. 1395ss).*

16 (4) *CONSULTATION.—In conducting the project,*  
17 *the Secretary shall consult with appropriate organi-*  
18 *zations and experts.*

19 (5) *DURATION.—The project shall be conducted*  
20 *for a period not to exceed 5 years.*

21 (b) *WAIVER AUTHORITY.—The Secretary shall waive*  
22 *compliance with the requirements of titles XI, XVIII, and*  
23 *XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395*  
24 *et seq., 1396 et seq.) to such extent and for such period as*  
25 *the Secretary determines is necessary to conduct the project.*



1 *tion 1905(p)(3)(A)(ii) on behalf of eligible low-income med-*  
2 *icare beneficiaries.*

3 “(b) *APPLICATION.*—*To be eligible to receive a block*  
4 *grant under this section, a State shall prepare and submit*  
5 *to the Secretary an application at such time, in such man-*  
6 *ner, and containing such information as the Secretary may*  
7 *require.*

8 “(c) *PAYMENTS.*—

9 “(1) *AMOUNT OF GRANT.*—*From amounts appro-*  
10 *propriated under subsection (d) for a fiscal year, the Sec-*  
11 *retary shall award a grant to each State with an ap-*  
12 *plication approved under subsection (b), in an*  
13 *amount that bears the same ratio to such amounts as*  
14 *the total number of eligible low-income medicare bene-*  
15 *ficiaries in the State bears to the total number of eli-*  
16 *gible low-income medicare beneficiaries in all States.*

17 “(2) *100 PERCENT FMAP.*—*Notwithstanding sec-*  
18 *tion 1905(b), the Federal medical assistance percent-*  
19 *age for any State that receives a grant under this sec-*  
20 *tion shall be 100 percent.*

21 “(d) *APPROPRIATIONS.*—

22 “(1) *IN GENERAL.*—*The Secretary is authorized*  
23 *to transfer from the Federal Supplementary Medical*  
24 *Insurance Trust Fund under section 1841 for the pur-*  
25 *pose of carrying out this section, an amount equal to*

1       \$200,000,000 in fiscal year 1998, \$250,000,000 in fis-  
2       cal year 1999, \$300,000,000 in fiscal year 2000,  
3       \$350,000,000 in fiscal year 2001, and \$400,000,000  
4       in fiscal year 2002, to remain available without fiscal  
5       year limitation.

6               “(2) *STATE ENTITLEMENT.*—*This section con-*  
7       *stitutes budget authority in advance of appropria-*  
8       *tions Acts and represents the obligation of the Federal*  
9       *Government to provide for the payment to States of*  
10       *amounts provided in accordance with the provisions*  
11       *of this section.*

12              “(e) *DEFINITIONS.*—*In this section:*

13                   “(1) *ELIGIBLE LOW-INCOME MEDICARE BENE-*  
14       *FICIARY.*—*The term ‘eligible low-income medicare*  
15       *beneficiary’ means an individual who is described in*  
16       *section 1902(a)(10)(E)(iii) but whose family income*  
17       *is greater than or equal to 120 percent of the poverty*  
18       *line and does not exceed 150 percent of the poverty*  
19       *line for a family of the size involved.*

20                   “(2) *STATE.*—*The term ‘State’ means each of the*  
21       *50 States, the District of Columbia, Puerto Rico,*  
22       *Guam, the Virgin Islands, American Samoa, and the*  
23       *Northern Mariana Islands.’”*

1 ***Subtitle H—Provisions Relating to***  
2 ***Parts A and B***

3 ***CHAPTER 1—SECONDARY PAYOR***  
4 ***PROVISIONS***

5 ***SEC. 5601. EXTENSION AND EXPANSION OF EXISTING RE-***  
6 ***QUIREMENTS.***

7 *(a) DATA MATCH.—*

8 *(1) ELIMINATION OF MEDICARE SUNSET.—Section*  
9 *1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is*  
10 *amended by striking clause (iii).*

11 *(2) ELIMINATION OF INTERNAL REVENUE CODE*  
12 *SUNSET.—Section 6103(l)(12) of the Internal Revenue*  
13 *Code of 1986 is amended by striking subparagraph*  
14 *(F).*

15 *(b) APPLICATION TO DISABLED INDIVIDUALS IN*  
16 *LARGE GROUP HEALTH PLANS.—*

17 *(1) IN GENERAL.—Section 1862(b)(1)(B) (42*  
18 *U.S.C. 1395y(b)(1)(B)) is amended—*

19 *(A) in clause (i), by striking “clause (iv)”*  
20 *and inserting “clause (iii)”;*

21 *(B) by striking clause (iii); and*

22 *(C) by redesignating clause (iv) as clause*  
23 *(iii).*

24 *(2) CONFORMING AMENDMENTS.—Paragraphs*  
25 *(1) through (3) of section 1837(i) (42 U.S.C.*

1       1395p(i)) and the second sentence of section 1839(b)  
2       (42 U.S.C. 1395r(b)) are each amended by striking  
3       “1862(b)(1)(B)(iv)” each place it appears and insert-  
4       ing “1862(b)(1)(B)(iii)”.

5       (c) *INDIVIDUALS WITH END STAGE RENAL DIS-*  
6 *EASE.*—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C))  
7 *is amended—*

8             (1) *in the last sentence by striking “October 1,*  
9             *1998” and inserting “the date of enactment of the*  
10            *Balanced Budget Act of 1997”; and*

11            (2) *by adding at the end the following: “Effective*  
12            *for items and services furnished on or after the date*  
13            *of enactment of the Balanced Budget Act of 1997,*  
14            *(with respect to periods beginning on or after the date*  
15            *that is 18 months prior to such date), clauses (i) and*  
16            *(ii) shall be applied by substituting ‘30-month’ for*  
17            *‘12-month’ each place it appears.”.*

18 **SEC. 5602. IMPROVEMENTS IN RECOVERY OF PAYMENTS.**

19       (a) *PERMITTING RECOVERY AGAINST THIRD PARTY*  
20 *ADMINISTRATORS OF PRIMARY PLANS.*—Section  
21 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) *is amend-*  
22 *ed—*

23             (1) *by striking “under this subsection to pay”*  
24             *and inserting “(directly, as a third-party adminis-*  
25             *trator, or otherwise) to make payment”; and*

1           (2) *by adding at the end the following: “The*  
2           *United States may not recover from a third-party ad-*  
3           *ministrator under this clause in cases where the*  
4           *third-party administrator would not be able to re-*  
5           *cover the amount at issue from the employer or group*  
6           *health plan for whom it provides administrative serv-*  
7           *ices due to the insolvency or bankruptcy of the em-*  
8           *ployer or plan.”.*

9           (b) *EXTENSION OF CLAIMS FILING PERIOD.—Section*  
10          *1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by*  
11          *adding at the end the following:*

12                           “(v) *CLAIMS-FILING PERIOD.—Not-*  
13                           *withstanding any other time limits that*  
14                           *may exist for filing a claim under an em-*  
15                           *ployer group health plan, the United States*  
16                           *may seek to recover conditional payments*  
17                           *in accordance with this subparagraph where*  
18                           *the request for payment is submitted to the*  
19                           *entity required or responsible under this*  
20                           *subsection to pay with respect to the item or*  
21                           *service (or any portion thereof) under a pri-*  
22                           *mary plan within the 3-year period begin-*  
23                           *ning on the date on which the item or serv-*  
24                           *ice was furnished.”.*

1           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section apply to items and services furnished on or after*  
 3 *the date of enactment of this Act.*

4           **CHAPTER 2—OTHER PROVISIONS**

5           **SEC. 5611. CONFORMING AGE FOR ELIGIBILITY UNDER**  
 6                           **MEDICARE TO RETIREMENT AGE FOR SOCIAL**  
 7                           **SECURITY BENEFITS.**

8           (a) *ENTITLEMENT TO HOSPITAL INSURANCE BENE-*  
 9 *FITS.*—*Section 226 (42 U.S.C. 426) is amended by striking*  
 10 *“age 65” each place such term appears and inserting “re-*  
 11 *tirement age”.*

12           (b) *HOSPITAL INSURANCE BENEFITS FOR THE*  
 13 *AGED.*—*Section 1811 (42 U.S.C. 1395c) is amended by*  
 14 *striking “age 65” each place such term appears and insert-*  
 15 *ing “retirement age (as such term is defined in section*  
 16 *216(l)(1))”.*

17           (c) *HOSPITAL INSURANCE BENEFITS FOR UNINSURED*  
 18 *ELDERLY INDIVIDUALS NOT OTHERWISE ELIGIBLE.*—*Sec-*  
 19 *tion 1818 (42 U.S.C. 1395i–2) is amended—*

20                   (1) *in subsection (a)(1), by striking “age of 65”*  
 21 *and inserting “retirement age (as such term is de-*  
 22 *defined in section 216(l)(1))”;*

23                   (2) *in subsection (d)(1), by striking “age 65”*  
 24 *and inserting “retirement age (as such term is de-*  
 25 *defined in section 216(l)(1))”; and*

1           (3) *in subsection (d)(3), by striking “65” and in-*  
2           *serting “retirement age (as such term is defined in*  
3           *section 216(l)(1))”.*

4           (d) *HOSPITAL INSURANCE BENEFITS FOR DISABLED*  
5           *INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLE-*  
6           *MENT.—Section 1818A(a)(1) (42 U.S.C. 1395i–2a(a)(1)) is*  
7           *amended by striking “the age of 65” and inserting “retire-*  
8           *ment age (as such term is defined in section 216(l)(1))”.*

9           (e) *ELIGIBILITY FOR PART B BENEFITS.—*

10           (1) *IN GENERAL.—Section 1836 (42 U.S.C.*  
11           *1395o) is amended by striking “age 65” each place*  
12           *such term appears and inserting “retirement age (as*  
13           *such term is defined in section 216(l)(1))”.*

14           (2) *ENROLLMENT PERIODS.—Section 1837 (42*  
15           *U.S.C. 1395p) is amended by striking “age 65” and*  
16           *“the age of 65” each place such terms appear and in-*  
17           *serting “retirement age (as such term is defined in*  
18           *section 216(l)(1))”.*

19           (3) *COVERAGE PERIOD.—Section 1838(c) (42*  
20           *U.S.C. 1395q(c)) is amended by striking “the age of*  
21           *65” and inserting “retirement age (as such term is*  
22           *defined in section 216(l)(1))”.*

23           (4) *AMOUNTS OF PREMIUMS.—Section 1839 (42*  
24           *U.S.C. 1395r) is amended by striking “age 65” and*  
25           *“the age of 65” each place such terms appear and in-*

1       serting “retirement age (as such term is defined in  
2       section 216(l)(1))”.

3       (f) *APPROPRIATIONS TO COVER GOVERNMENT CON-*  
4 *TRIBUTIONS AND CONTINGENCY RESERVE.*—Section  
5 1844(a)(1) (42 U.S.C. 1395w) is amended by striking “age  
6 65” each place such term appears and inserting “retirement  
7 age”.

8       (g) *MEDICARE SECONDARY PAYER.*—Section 1862(b)  
9 (42 U.S.C. 1395y(b)) is amended by striking “age 65” each  
10 place such term appears and inserting “retirement age (as  
11 such term is defined in section 216(l)(1))”.

12       (h) *MEDICARE SUPPLEMENTAL POLICIES.*—Section  
13 1882(s)(2)(A) (42 U.S.C. 1395ss(s)(2)(A)) is amended by  
14 striking “65 years of age” and inserting “retirement age  
15 (as such term is defined in section 216(l)(1))”.

16 **SEC. 5612. INCREASED CERTIFICATION PERIOD FOR CER-**  
17 **TAIN ORGAN PROCUREMENT ORGANIZA-**  
18 **TIONS.**

19       Section 1138(b)(1)(A)(ii) (42 U.S.C. 1320b–  
20 8(b)(1)(A)(ii)) is amended by striking “two years” and in-  
21 serting “2 years (3 years if the Secretary determines appro-  
22 priate for an organization on the basis of its past prac-  
23 tices)”.

1 **SEC. 5613. FACILITATING THE USE OF PRIVATE CONTRACTS**  
2 **UNDER THE MEDICARE PROGRAM.**

3 (a) *IN GENERAL.*—*Title XVIII of the Social Security*  
4 *Act (42 U.S.C. 1395 et seq.) is amended by inserting after*  
5 *section 1804 of such Act (42 U.S.C. 1395b–2) the following:*

6 “*CLARIFICATION OF PRIVATE CONTRACTS FOR HEALTH*  
7 *SERVICES*

8 “*SEC. 1805. (a) IN GENERAL.*—*Nothing in this title*  
9 *shall prohibit a physician or another health care profes-*  
10 *sional who does not provide items or services under the pro-*  
11 *gram under this title from entering into a private contract*  
12 *with a medicare beneficiary for health services for which*  
13 *no claim for payment is to be submitted under this title.*

14 “(b) *LIMITATION ON ACTUAL CHARGE NOT APPLICA-*  
15 *BLE.*—*Section 1848(g) shall not apply with respect to a*  
16 *health service provided to a medicare beneficiary under a*  
17 *contract described in subsection (a).*

18 “(c) *DEFINITION OF MEDICARE BENEFICIARY.*—*In*  
19 *this section, the term ‘medicare beneficiary’ means an indi-*  
20 *vidual who is entitled to benefits under part A or enrolled*  
21 *under part B.*

22 “(d) *REPORT.*—*Not later than October 1, 2001, the Ad-*  
23 *ministrator of the Health Care Financing Administration*  
24 *shall submit a report to Congress on the effect on the pro-*  
25 *gram under this title of private contracts entered into under*  
26 *this section. Such report shall include—*

1           “(1) analyses regarding—

2                   “(A) the fiscal impact of such contracts on  
3           total Federal expenditures under this title and  
4           on out-of-pocket expenditures by medicare bene-  
5           ficiaries for health services under this title; and

6                   “(B) the quality of the health services pro-  
7           vided under such contracts; and

8           “(2) recommendations as to whether medicare  
9           beneficiaries should continue to be able to enter pri-  
10          vate contracts under this section and if so, what legis-  
11          lative changes, if any should be made to improve such  
12          contracts.”.

13          (b) *EFFECTIVE DATE.*—The amendment made by sub-  
14          section (a) shall apply with respect to contracts entered into  
15          on and after October 1, 1997.

16                   ***Subtitle I—Miscellaneous***  
17                   ***Provisions***

18          ***SEC. 5651. INCLUSION OF STANLY COUNTY, N.C. IN A LARGE***  
19                   ***URBAN AREA UNDER MEDICARE PROGRAM.***

20          (a) *IN GENERAL.*—For purposes of section 1886(d) of  
21          the Social Security Act (42 U.S.C. 1395ww(d)), the large  
22          urban area of Charlotte-Gastonia-Rock Hill-North Caro-  
23          lina-South Carolina may be deemed to include Stanly  
24          County, North Carolina.

1       (b) *EFFECTIVE DATE.*—*This section shall apply with*  
2 *respect to discharges occurring on or after October 1, 1997.*

3 **SEC. 5652. MEDICARE ANTI-DUPLICATION PROVISION.**

4       (a) *In section 1395ss(d)(3)(A)(v) of title 42, United*  
5 *States Code, insert “(a)” before “For”, and after the first*  
6 *sentence insert:*

7       “(b) *For purposes of this subparagraph, a health in-*  
8 *surance policy (which may be a contract with a health*  
9 *maintenance organization) is not considered to ‘duplicate’*  
10 *health benefits under this title or title XIX or under another*  
11 *health insurance policy if it—*

12               “(1) *provides comprehensive health care benefits*  
13 *that replace the benefits provided by another health*  
14 *insurance policy,*

15               “(2) *is being provided to an individual entitled*  
16 *to benefits under part A or enrolled under part B on*  
17 *the basis of section 226(b), and*

18               “(3) *coordinates against items and services*  
19 *available or paid for under this title or title XIX,*  
20 *provided that payments under this title or title XIX*  
21 *shall not be treated as payments under such policy in*  
22 *determining annual or lifetime benefit limits.”.*

23       (b) *In section 1395ss(d)(3)(A)(v) of title 42, United*  
24 *States Code, insert “(c)” before “For purposes of this*  
25 *clause”.*

1 **DIVISION 2—MEDICAID AND**  
 2 **CHILDREN’S HEALTH INSUR-**  
 3 **ANCE INITIATIVES**

4 **Subtitle I—Medicaid**

5 **CHAPTER 1—MEDICAID SAVINGS**

6 **Subchapter A—Managed Care Reforms**

7 **SEC. 5701. STATE OPTION FOR MANDATORY MANAGED**  
 8 **CARE.**

9 *(a) IN GENERAL.—Title XIX is amended—*

10 *(1) by inserting after the title heading the follow-*  
 11 *ing:*

12 *“PART A—GENERAL PROVISIONS”; and*

13 *(2) by adding at the end the following new part:*

14 *“PART B—PROVISIONS RELATING TO MANAGED CARE*  
 15 *“SEC. 1941. BENEFICIARY CHOICE; ENROLLMENT.*

16 *“(a) STATE OPTIONS FOR ENROLLMENT OF BENE-*  
 17 *FICIARIES IN MANAGED CARE ARRANGEMENTS.—*

18 *“(1) IN GENERAL.—Subject to the succeeding*  
 19 *provisions of this part and notwithstanding para-*  
 20 *graphs (1), (10)(B), and (23)(A) of section 1902(a),*  
 21 *a State may require an individual who is eligible for*  
 22 *medical assistance under the State plan under this*  
 23 *title and who is not a special needs individual (as de-*  
 24 *finied in subsection (e)) to enroll with a managed care*  
 25 *entity (as defined in section 1950(a)(1)) as a condi-*

1        *tion of receiving such assistance (and, with respect to*  
2        *assistance furnished by or under arrangements with*  
3        *such entity, to receive such assistance through the en-*  
4        *tity), if the following provisions are met:*

5                *“(A) ENTITY MEETS REQUIREMENTS.—The*  
6                *entity meets the applicable requirements of this*  
7                *part.*

8                *“(B) CONTRACT WITH STATE.—The entity*  
9                *enters into a contract with the State to provide*  
10               *services for the benefit of individuals eligible for*  
11               *benefits under this title under which prepaid*  
12               *payments to such entity are made on an actuari-*  
13               *ally sound basis. Such contract shall specify ben-*  
14               *efits the provision (or arrangement) for which*  
15               *the entity is responsible.*

16               *“(C) CHOICE OF COVERAGE.—*

17               *“(i) IN GENERAL.—The State permits*  
18               *an individual to choose a managed care en-*  
19               *tity from managed care organizations and*  
20               *primary care case managers who meet the*  
21               *requirements of this part but not less than*  
22               *from—*

23                        *“(I) 2 medicaid managed care or-*  
24                        *ganizations,*

1           “(II) a medicaid managed care  
2           organization and a primary care case  
3           manager, or

4           “(III) a primary care case man-  
5           ager as long as an individual may  
6           choose between 2 primary care case  
7           managers.

8           “(ii) STATE OPTION.—At the option of  
9           the State, a State shall be considered to  
10          meet the requirements of clause (i) in the  
11          case of an individual residing in a rural  
12          area, if the State—

13               “(I) requires the individual to en-  
14               roll with a medicaid managed care or-  
15               ganization or a primary care case  
16               manager if such organization or entity  
17               permits the individual to receive such  
18               assistance through not less than 2 phy-  
19               sicians or case managers (to the extent  
20               that at least 2 physicians or case man-  
21               agers are available to provide such as-  
22               sistance in the area), and

23               “(II) permits the individual to ob-  
24               tain such assistance from any other  
25               provider in appropriate circumstances

1                   *(as established by the State under regu-*  
2                   *lations of the Secretary).*

3                   “(iii) *RELIGIOUS CHOICE.—The State,*  
4                   *in permitting an individual to choose a*  
5                   *managed care entity under clause (i) shall*  
6                   *permit the individual to have access to ap-*  
7                   *propriate religiously-affiliated long-term*  
8                   *care facilities that are not pervasively sec-*  
9                   *tarian and that provide comparable non-*  
10                   *sectarian medical care. With respect to such*  
11                   *access, the State shall permit an individual*  
12                   *to select a facility that is not a part of the*  
13                   *network of the managed care entity if such*  
14                   *network does not provide access to appro-*  
15                   *priate faith-based facilities. Such facility*  
16                   *that provides care under this clause shall*  
17                   *accept the terms and conditions offered by*  
18                   *the managed care entity to other providers*  
19                   *in the network. No facility may be com-*  
20                   *pelled to admit an individual if the medical*  
21                   *director of that facility believes that the fa-*  
22                   *ility cannot provide the specific nursing*  
23                   *care and services an enrollee requires.*

24                   “(D) *CHANGES IN ENROLLMENT.—The*  
25                   *State—*

1           “(i) provides the individual with the  
2           opportunity to change enrollment among  
3           managed care entities once annually and  
4           notifies the individual of such opportunity  
5           not later than 60 days prior to the first  
6           date on which the individual may change  
7           enrollment, and

8           “(ii) permits individuals to terminate  
9           their enrollment as provided under para-  
10          graph (2).

11          “(E) *ENROLLMENT PRIORITIES.*—The State  
12          establishes a method for establishing enrollment  
13          priorities in the case of a managed care entity  
14          that does not have sufficient capacity to enroll  
15          all such individuals seeking enrollment under  
16          which individuals already enrolled with the en-  
17          tity are given priority in continuing enrollment  
18          with the entity.

19          “(F) *DEFAULT ENROLLMENT PROCESS.*—  
20          The State establishes a default enrollment process  
21          which meets the requirements described in para-  
22          graph (3) and under which any such individual  
23          who does not enroll with a managed care entity  
24          during the enrollment period specified by the

1           *State shall be enrolled by the State with such an*  
2           *entity in accordance with such process.*

3           “(G) *SANCTIONS.—The State establishes the*  
4           *sanctions provided for in section 1949.*

5           “(H) *INDIAN ENROLLMENT.—No individual*  
6           *who is an Indian (as defined in section 4 of the*  
7           *Indian Health Care Improvement Act of 1976) is*  
8           *required to enroll in any entity that is not one*  
9           *of the following (and only if such entity is par-*  
10          *ticipating under the plan):*

11                   “(i) *The Indian Health Service.*

12                   “(ii) *An Indian health program oper-*  
13                   *ated by an Indian tribe or tribal organiza-*  
14                   *tion pursuant to a contract, grant, coopera-*  
15                   *tive agreement, or compact with the Indian*  
16                   *Health Service pursuant to the Indian Self-*  
17                   *Determination Act (25 U.S.C. 450 et seq.).*

18                   “(iii) *An urban Indian health program*  
19                   *operated by an urban Indian organization*  
20                   *pursuant to a grant or contract with the*  
21                   *Indian Health Service pursuant to title V of*  
22                   *the Indian Health Care Improvement Act*  
23                   *(25 U.S.C. 1601 et seq.).*

24           “(2) *TERMINATION OF ENROLLMENT.—*

1           “(A) *IN GENERAL.*—*The State, enrollment*  
2           *broker, and managed care entity (if any) shall*  
3           *permit an individual eligible for medical assist-*  
4           *ance under the State plan under this title who*  
5           *is enrolled with the entity to terminate such en-*  
6           *rollment for cause at any time, and without*  
7           *cause during the 90-day period beginning on the*  
8           *date the individual receives notice of enrollment*  
9           *and at least every 12 months thereafter, and*  
10          *shall notify each such individual of the oppor-*  
11          *tunity to terminate enrollment under these con-*  
12          *ditions.*

13           “(B) *FRAUDULENT INDUCEMENT OR COER-*  
14          *CION AS GROUNDS FOR CAUSE.*—*For purposes of*  
15          *subparagraph (A), an individual terminating*  
16          *enrollment with a managed care entity on the*  
17          *grounds that the enrollment was based on fraud-*  
18          *ulent inducement or was obtained through coer-*  
19          *cion or pursuant to the imposition against the*  
20          *managed care entity of the sanction described in*  
21          *section 1949(b)(3) shall be considered to termi-*  
22          *nate such enrollment for cause.*

23           “(C) *NOTICE OF TERMINATION.*—

24           “(i) *NOTICE TO STATE.*—

1           “(I) *BY INDIVIDUALS.*—*Each in-*  
2           *dividual terminating enrollment with*  
3           *a managed care entity under subpara-*  
4           *graph (A) shall do so by providing no-*  
5           *tice of the termination to an office of*  
6           *the State agency administering the*  
7           *State plan under this title, the State or*  
8           *local welfare agency, or an office of a*  
9           *managed care entity.*

10           “(II) *BY ORGANIZATIONS.*—*Any*  
11           *managed care entity which receives no-*  
12           *tice of an individual’s termination of*  
13           *enrollment with such entity through re-*  
14           *ceipt of such notice at an office of a*  
15           *managed care entity shall provide*  
16           *timely notice of the termination to the*  
17           *State agency administering the State*  
18           *plan under this title.*

19           “(ii) *NOTICE TO PLAN.*—*The State*  
20           *agency administering the State plan under*  
21           *this title or the State or local welfare agen-*  
22           *cy which receives notice of an individual’s*  
23           *termination of enrollment with a managed*  
24           *care entity under clause (i) shall provide*

1           *timely notice of the termination to such en-*  
2           *tity.*

3           “(3) *DEFAULT ENROLLMENT PROCESS REQUIRE-*  
4           *MENTS.—The requirements of a default enrollment*  
5           *process established by a State under paragraph (1)(F)*  
6           *are as follows:*

7                   “(A) *The process shall provide that the*  
8                   *State may not enroll individuals with a man-*  
9                   *aged care entity which is not in compliance with*  
10                  *the applicable requirements of this part.*

11                  “(B) *The process shall provide (consistent*  
12                  *with subparagraph (A)) for enrollment of such*  
13                  *an individual with a medicaid managed care or-*  
14                  *ganization—*

15                          “(i) *that maintains existing provider-*  
16                          *individual relationships or that has entered*  
17                          *into contracts with providers (such as Fed-*  
18                          *erally qualified health centers, rural health*  
19                          *clinics, hospitals that qualify for dispropor-*  
20                          *tionate share hospital payments under sec-*  
21                          *tion 1886(d)(5)(F), and hospitals described*  
22                          *in section 1886(d)(1)(B)(iii)) that have tra-*  
23                          *ditionally served beneficiaries under this*  
24                          *title, and*

1           “(ii) if there is no provider described  
2           in clause (i), in a manner that provides for  
3           an equitable distribution of individuals  
4           among all qualified managed care entities  
5           available to enroll individuals through such  
6           default enrollment process, consistent with  
7           the enrollment capacities of such entities.

8           “(C) The process shall permit and assist an  
9           individual enrolled with an entity under such  
10          process to change such enrollment to another  
11          managed care entity during a period (of at least  
12          90 days) after the effective date of the enrollment.

13          “(D) The process may provide for consider-  
14          ation of factors such as quality, geographic prox-  
15          imity, continuity of providers, and capacity of  
16          the plan when conducting such process.

17          “(b) *REENROLLMENT OF INDIVIDUALS WHO REGAIN*  
18          *ELIGIBILITY.*—

19                 “(1) *IN GENERAL.*—If an individual eligible for  
20                 medical assistance under a State plan under this title  
21                 and enrolled with a managed care entity with a con-  
22                 tract under subsection (a)(1)(B) ceases to be eligible  
23                 for such assistance for a period of not greater than 2  
24                 months, the State may provide for the automatic re-  
25                 enrollment of the individual with the entity as of the

1 *first day of the month in which the individual is*  
2 *again eligible for such assistance, and may consider*  
3 *factors such as quality, geographic proximity, con-*  
4 *tinuity of providers, and capacity of the plan when*  
5 *conducting such reenrollment.*

6 “(2) *CONDITIONS.—Paragraph (1) shall only*  
7 *apply if—*

8 “(A) *the month for which the individual is*  
9 *to be reenrolled occurs during the enrollment pe-*  
10 *riod covered by the individual’s original enroll-*  
11 *ment with the managed care entity,*

12 “(B) *the managed care entity continues to*  
13 *have a contract with the State agency under sub-*  
14 *section (a)(1)(B) as of the first day of such*  
15 *month, and*

16 “(C) *the managed care entity complies with*  
17 *the applicable requirements of this part.*

18 “(3) *NOTICE OF REENROLLMENT.—The State*  
19 *shall provide timely notice to a managed care entity*  
20 *of any reenrollment of an individual under this sub-*  
21 *section.*

22 “(c) *STATE OPTION OF MINIMUM ENROLLMENT PE-*  
23 *RIOD.—*

24 “(1) *IN GENERAL.—In the case of an individual*  
25 *who is enrolled with a managed care entity under*

1        *this part and who would (but for this subsection) lose*  
2        *eligibility for benefits under this title before the end*  
3        *of the minimum enrollment period (defined in para-*  
4        *graph (2)), the State plan under this title may pro-*  
5        *vide, notwithstanding any other provision of this*  
6        *title, that the individual shall be deemed to continue*  
7        *to be eligible for such benefits until the end of such*  
8        *minimum period, but, except for benefits furnished*  
9        *under section 1902(a)(23)(B), only with respect to*  
10       *such benefits provided to the individual as an enrollee*  
11       *of such entity.*

12            *“(2) MINIMUM ENROLLMENT PERIOD DEFINED.—*  
13        *For purposes of paragraph (1), the term ‘minimum*  
14        *enrollment period’ means, with respect to an individ-*  
15        *ual’s enrollment with an entity under a State plan,*  
16        *a period, established by the State, of not more than*  
17        *6 months beginning on the date the individual’s en-*  
18        *rollment with the entity becomes effective, except that*  
19        *a State may extend such period for up to a total of*  
20        *12 months in the case of an individual’s enrollment*  
21        *with a managed care entity (as defined in section*  
22        *1950(a)(1)) so long as such extension is done uni-*  
23        *formly for all individuals enrolled with all such enti-*  
24        *ties.*

25            *“(d) OTHER ENROLLMENT-RELATED PROVISIONS.—*

1           “(1) *NONDISCRIMINATION.*—*A managed care en-*  
2           *tity may not discriminate on the basis of health sta-*  
3           *tus or anticipated need for services in the enrollment,*  
4           *reenrollment, or disenrollment of individuals eligible*  
5           *to receive medical assistance under a State plan*  
6           *under this title or by discouraging enrollment (except*  
7           *as permitted by this section) by eligible individuals.*

8           “(2) *PROVISION OF INFORMATION.*—

9           “(A) *IN GENERAL.*—*Each State, enrollment*  
10           *broker, or managed care organization shall pro-*  
11           *vide all enrollment notices and informational*  
12           *and instructional materials in a manner and*  
13           *form which may be easily understood by enroll-*  
14           *ees of the entity who are eligible for medical as-*  
15           *sistance under the State plan under this title, in-*  
16           *cluding enrollees and potential enrollees who are*  
17           *blind, deaf, disabled, or cannot read or under-*  
18           *stand the English language.*

19           “(B) *INFORMATION TO HEALTH CARE PRO-*  
20           *VIDERS, ENROLLEES, AND POTENTIAL ENROLL-*  
21           *EES.*—*Each medicaid managed care organiza-*  
22           *tion shall—*

23                   “(i) *upon request, make the informa-*  
24                   *tion described in section 1945(c)(1) avail-*

1           able to enrollees and potential enrollees in  
2           the organization's service area, and

3           “(ii) provide to enrollees and potential  
4           enrollees information regarding all items  
5           and services that are available to enrollees  
6           under the contract between the State and  
7           the organization that are covered either di-  
8           rectly or through a method of referral and  
9           prior authorization.

10           “(3) *PROVISION OF COMPARATIVE INFORMA-*  
11           *TION.—*

12           “(A) *BY STATE.—*A State that requires in-  
13           dividuals to enroll with managed care entities  
14           under this part shall annually provide to all en-  
15           rollees and potential enrollees a list identifying  
16           the managed care entities that are (or will be)  
17           available and information described in subpara-  
18           graph (C) concerning such entities. Such infor-  
19           mation shall be presented in a comparative,  
20           chart-like form.

21           “(B) *BY ENTITY.—*Upon the enrollment, or  
22           renewal of enrollment, of an individual with a  
23           managed care entity under this part, the entity  
24           shall provide such individual with the informa-  
25           tion described in subparagraph (C) concerning

1           *such entity and other entities available in the*  
2           *area, presented in a comparative, chart-like*  
3           *form.*

4           “(C) *REQUIRED INFORMATION.—Information*  
5           *under this subparagraph, with respect to a*  
6           *managed care entity for a year, shall include the*  
7           *following:*

8                   “(i) *BENEFITS.—The benefits covered*  
9                   *by the entity, including—*

10                           “(I) *covered items and services be-*  
11                           *yond those provided under a tradi-*  
12                           *tional fee-for-service program;*

13                           “(II) *any beneficiary cost sharing;*  
14                           *and*

15                           “(III) *any maximum limitations*  
16                           *on out-of-pocket expenses.*

17                   “(ii) *PREMIUMS.—The net monthly*  
18                   *premium, if any, under the entity.*

19                   “(iii) *SERVICE AREA.—The service*  
20                   *area of the entity.*

21                   “(iv) *QUALITY AND PERFORMANCE.—*  
22                   *To the extent available, quality and per-*  
23                   *formance indicators for the benefits under*  
24                   *the entity (and how they compare to such*  
25                   *indicators under the traditional fee-for-serv-*

1           ice programs in the area involved), includ-  
2           ing—

3                   “(I) disenrollment rates for enroll-  
4                   ees electing to receive benefits through  
5                   the entity for the previous 2 years (ex-  
6                   cluding disenrollment due to death or  
7                   moving outside the service area of the  
8                   entity);

9                   “(II) information on enrollee sat-  
10                  isfaction;

11                  “(III) information on health proc-  
12                  ess and outcomes;

13                  “(IV) grievance procedures;

14                  “(V) the extent to which an en-  
15                  rollee may select the health care pro-  
16                  vider of their choice, including health  
17                  care providers within the network of  
18                  the entity and out-of-network health  
19                  care providers (if the entity covers out-  
20                  of-network items and services); and

21                  “(VI) an indication of enrollee ex-  
22                  posure to balance billing and the re-  
23                  strictions on coverage of items and  
24                  services provided to such enrollee by an  
25                  out-of-network health care provider.

1                   “(v) *SUPPLEMENTAL BENEFITS OP-*  
2                   *TIONS.—Whether the entity offers optional*  
3                   *supplemental benefits and the terms and*  
4                   *conditions (including premiums) for such*  
5                   *coverage.*

6                   “(vi) *PHYSICIAN COMPENSATION.—An*  
7                   *overall summary description as to the meth-*  
8                   *od of compensation of participating physi-*  
9                   *cians.*

10                  “(e) *SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In*  
11                  *this part, the term ‘special needs individual’ means any*  
12                  *of the following individuals:*

13                         “(1) *SPECIAL NEEDS CHILD.—An individual*  
14                         *who is under 19 years of age who—*

15                                 “(A) *is eligible for supplemental security*  
16                                 *income under title XVI;*

17                                 “(B) *is described under section*  
18                                 *501(a)(1)(D);*

19                                 “(C) *is a child described in section*  
20                                 *1902(e)(3); or*

21                                 “(D) *is not described in any preceding sub-*  
22                                 *paragraph but is in foster care or otherwise in*  
23                                 *an out-of-home placement.*

24                         “(2) *MEDICARE BENEFICIARIES.—A qualified*  
25                         *medicare beneficiary (as defined in section*



1 providers. The Secretary may permit such a maxi-  
2 mum ratio to vary depending on the area and popu-  
3 lation served. Such standards shall be based on stand-  
4 ards commonly applied in the commercial market,  
5 commonly used in accreditation of managed care or-  
6 ganizations, and standards used in the approval of  
7 waiver applications under section 1115, and shall be  
8 consistent with the requirements of section  
9 1876(c)(4)(A) and part C of title XVIII.

10 “(b) REFERRAL TO SPECIALTY CARE FOR ENROLLEES  
11 REQUIRING TREATMENT BY SPECIALISTS.—

12 “(1) IN GENERAL.—In the case of an enrollee  
13 under a managed care entity and who has a condi-  
14 tion or disease of sufficient seriousness and complex-  
15 ity to require treatment by a specialist, the entity  
16 shall make or provide for a referral to a specialist  
17 who is available and accessible to provide the treat-  
18 ment for such condition or disease.

19 “(2) SPECIALIST DEFINED.—For purposes of this  
20 subsection, the term ‘specialist’ means, with respect to  
21 a condition, a health care practitioner, facility, or  
22 center (such as a center of excellence) that has ade-  
23 quate expertise through appropriate training and ex-  
24 perience (including, in the case of a child, an appro-

1        *prate pediatric specialist) to provide high quality*  
2        *care in treating the condition.*

3            “(3) *CARE UNDER REFERRAL.—Care provided*  
4        *pursuant to such referral under paragraph (1) shall*  
5        *be—*

6            “(A) *pursuant to a treatment plan (if any)*  
7        *developed by the specialist and approved by the*  
8        *entity, in consultation with the designated pri-*  
9        *mary care provider or specialist and the enrollee*  
10       *(or the enrollee’s designee), and*

11           “(B) *in accordance with applicable quality*  
12        *assurance and utilization review standards of*  
13        *the entity.*

14        *Nothing in this subsection shall be construed as pre-*  
15        *venting such a treatment plan for an enrollee from re-*  
16        *quiring a specialist to provide the primary care pro-*  
17        *vider with regular updates on the specialty care pro-*  
18        *vided, as well as all necessary medical information.*

19           “(4) *REFERRALS TO PARTICIPATING PROVID-*  
20        *ERS.—An entity is not required under paragraph (1)*  
21        *to provide for a referral to a specialist that—*

22           “(A) *is not a participating provider, unless*  
23        *the entity does not have an appropriate special-*  
24        *ist that is available and accessible to treat the*  
25        *enrollee’s condition, and*

1           “(B) is a participating provider with re-  
2           spect to such treatment.

3           “(5) *TREATMENT OF NONPARTICIPATING PROVID-*  
4           *ERS.—If an entity refers an enrollee to a nonpartici-*  
5           *pating specialist, services provided pursuant to the*  
6           *approved treatment plan shall be provided at no ad-*  
7           *ditional cost to the enrollee beyond what the enrollee*  
8           *would otherwise pay for services received by such a*  
9           *specialist that is a participating provider.*

10          “(c) *TIMELY DELIVERY OF SERVICES.—Each managed*  
11          *care entity shall respond to requests from enrollees for the*  
12          *delivery of medical assistance in a manner which—*

13                 “(1) *makes such assistance—*

14                         “(A) *available and accessible to each such*  
15                         *individual, within the area served by the entity,*  
16                         *with reasonable promptness and in a manner*  
17                         *which assures continuity; and*

18                         “(B) *when medically necessary, available*  
19                         *and accessible 24 hours a day and 7 days a*  
20                         *week, and*

21                         “(2) *with respect to assistance provided to such*  
22                         *an individual other than through the entity, or with-*  
23                         *out prior authorization, in the case of a primary care*  
24                         *case manager, provides for reimbursement to the indi-*

1        *vidual (if applicable under the contract between the*  
2        *State and the entity) if—*

3                *“(A) the services were medically necessary*  
4                *and immediately required because of an unfore-*  
5                *seen illness, injury, or condition and meet the re-*  
6                *quirements for access to emergency care under*  
7                *section 1943; and*

8                *“(B) it was not reasonable given the cir-*  
9                *cumstances to obtain the services through the en-*  
10               *tity, or, in the case of a primary care case man-*  
11               *ager, with prior authorization.*

12        *“(d) INTERNAL GRIEVANCE PROCEDURE.—Each med-*  
13        *icaid managed care organization shall establish an internal*  
14        *grievance procedure under which an enrollee who is eligible*  
15        *for medical assistance under the State plan under this title,*  
16        *or a provider on behalf of such an enrollee, may challenge*  
17        *the denial of coverage of or payment for such assistance.*

18        *“(e) INFORMATION ON BENEFIT CARVE OUTS.—Each*  
19        *managed care entity shall inform each enrollee, in a written*  
20        *and prominent manner, of any benefits to which the enrollee*  
21        *may be entitled to medical assistance under this title but*  
22        *which are not made available to the enrollee through the*  
23        *entity. Such information shall include information on*  
24        *where and how such enrollees may access benefits not made*  
25        *available to the enrollee through the entity.*

1       “(f) *DEMONSTRATION OF ADEQUATE CAPACITY AND*  
2 *SERVICES.—Each medicaid managed care organization*  
3 *shall provide the State and the Secretary with adequate as-*  
4 *surances (as determined by the Secretary) that the organi-*  
5 *zation, with respect to a service area—*

6               “(1) *has the capacity to serve the expected enroll-*  
7 *ment in such service area,*

8               “(2) *offers an appropriate range of services for*  
9 *the population expected to be enrolled in such service*  
10 *area, including transportation services and trans-*  
11 *lation services consisting of the principal languages*  
12 *spoken in the service area,*

13               “(3) *maintains a sufficient number, mix, and ge-*  
14 *ographic distribution of providers of services included*  
15 *in the contract with the State to ensure that services*  
16 *are available to individuals receiving medical assist-*  
17 *ance and enrolled in the organization to the same ex-*  
18 *tent that such services are available to individuals en-*  
19 *rolled in the organization who are not recipients of*  
20 *medical assistance under the State plan under this*  
21 *title,*

22               “(4) *maintains extended hours of operation with*  
23 *respect to primary care services that are beyond those*  
24 *maintained during a normal business day,*

1           “(5) provides preventive and primary care serv-  
2           ices in locations that are readily accessible to mem-  
3           bers of the community,

4           “(6) provides information concerning edu-  
5           cational, social, health, and nutritional services of-  
6           fered by other programs for which enrollees may be el-  
7           igible, and

8           “(7) complies with such other requirements relat-  
9           ing to access to care as the Secretary or the State  
10          may impose.

11          “(g) *COMPLIANCE WITH CERTAIN MATERNITY AND*  
12          *MENTAL HEALTH REQUIREMENTS.*—Each medicaid man-  
13          aged care organization shall comply with the requirements  
14          of subpart 2 of part A of title XXVII of the Public Health  
15          Service Act insofar as such requirements apply with respect  
16          to a health insurance issuer that offers group health insur-  
17          ance coverage.

18          “(h) *TREATMENT OF CHILDREN WITH SPECIAL*  
19          *HEALTH CARE NEEDS.*—

20                 “(1) *IN GENERAL.*—In the case of an enrollee of  
21          a managed care entity who is a child described in sec-  
22          tion 1941(e)(1)—

23                         “(A) if any medical assistance specified in  
24                         the contract with the State is identified in a  
25                         treatment plan prepared for the enrollee, the

1           *managed care entity shall provide (or arrange to*  
2           *be provided) such assistance in accordance with*  
3           *the treatment plan either—*

4                     *“(i) by referring the enrollee to a pedi-*  
5                     *atric health care provider who is trained*  
6                     *and experienced in the provision of such as-*  
7                     *sistance and who has a contract with the*  
8                     *managed care entity to provide such assist-*  
9                     *ance; or*

10                    *“(ii) if appropriate services are not*  
11                    *available through the managed care entity,*  
12                    *permitting such enrollee to seek appropriate*  
13                    *specialty services from pediatric health care*  
14                    *providers outside of or apart from the man-*  
15                    *aged care entity, and*

16                    *“(B) the managed care entity shall require*  
17                    *each health care provider with whom the man-*  
18                    *aged care entity has entered into an agreement*  
19                    *to provide medical assistance to enrollees to fur-*  
20                    *nish the medical assistance specified in such en-*  
21                    *rollee’s treatment plan to the extent the health*  
22                    *care provider is able to carry out such treatment*  
23                    *plan.*

24                    *“(2) PRIOR AUTHORIZATION.—An enrollee re-*  
25                    *ferred for treatment under paragraph (1)(A)(i), or*



1           “(2) *the entity shall respond in a timely fashion*  
2 *to the initial contact with the entity with a decision*  
3 *as to whether the services for which approval is re-*  
4 *quested will be authorized, and*

5           “(3) *if a denial of a request is communicated,*  
6 *the entity shall, upon request from the treating physi-*  
7 *cian, arrange for a physician who is authorized by*  
8 *the entity to review the denial to communicate di-*  
9 *rectly with the treating physician in a timely fashion.*

10          “(c) *DEFINITION OF EMERGENCY SERVICES.—In this*  
11 *section—*

12           “(1) *IN GENERAL.—The term ‘emergency serv-*  
13 *ices’ means, with respect to an individual enrolled*  
14 *with a managed care entity, covered inpatient and*  
15 *outpatient services that—*

16           “(A) *are furnished by a provider that is*  
17 *qualified to furnish such services under this title,*  
18 *and*

19           “(B) *are needed to evaluate or stabilize an*  
20 *emergency medical condition (as defined in sub-*  
21 *paragraph (B)).*

22           “(2) *EMERGENCY MEDICAL CONDITION BASED ON*  
23 *PRUDENT LAYPERSON.—The term ‘emergency medical*  
24 *condition’ means a medical condition manifesting it-*  
25 *self by acute symptoms of sufficient severity (includ-*

1        *ing severe pain) such that a prudent layperson, who*  
 2        *possesses an average knowledge of health and medi-*  
 3        *cine, could reasonably expect the absence of immediate*  
 4        *medical attention to result in—*

5                *“(A) placing the health of the individual*  
 6                *(or, with respect to a pregnant woman, the*  
 7                *health of the woman or her unborn child) in seri-*  
 8                *ous jeopardy,*

9                *“(B) serious impairment to bodily func-*  
 10                *tions, or*

11                *“(C) serious dysfunction of any bodily*  
 12                *organ or part.*

13        **“SEC. 1944. OTHER BENEFICIARY PROTECTIONS.**

14                *“(a) PROTECTING ENROLLEES AGAINST THE INSOL-*  
 15        *VENCY OF MANAGED CARE ENTITIES AND AGAINST THE*  
 16        *FAILURE OF THE STATE TO PAY SUCH ENTITIES.—Each*  
 17        *managed care entity shall provide that an individual eligi-*  
 18        *ble for medical assistance under the State plan under this*  
 19        *title who is enrolled with the entity may not be held liable—*

20                *“(1) for the debts of the managed care entity, in*  
 21        *the event of the entity’s insolvency,*

22                *“(2) for services provided to the individual—*

23                *“(A) in the event of the entity failing to re-*  
 24                *ceive payment from the State for such services;*  
 25                *or*

1           “(B) *in the event of a health care provider*  
2           *with a contractual or other arrangement with*  
3           *the entity failing to receive payment from the*  
4           *State or the managed care entity for such serv-*  
5           *ices, or*

6           “(3) *for the debts of any health care provider*  
7           *with a contractual or other arrangement with the en-*  
8           *tity to provide services to the individual, in the event*  
9           *of the insolvency of the health care provider.*

10          “(b) *PROTECTION OF BENEFICIARIES AGAINST BAL-*  
11 *ANCE BILLING THROUGH SUBCONTRACTORS.—*

12           “(1) *IN GENERAL.—Any contract between a*  
13           *managed care entity that has an agreement with a*  
14           *State under this title and another entity under which*  
15           *the other entity (or any other entity pursuant to the*  
16           *contract) provides directly or indirectly for the provi-*  
17           *sion of services to beneficiaries under the agreement*  
18           *with the State shall include such provisions as the*  
19           *Secretary may require in order to assure that the*  
20           *other entity complies with balance billing limitations*  
21           *and other requirements of this title (such as limita-*  
22           *tion on withholding of services) as they would apply*  
23           *to the managed care entity if such entity provided*  
24           *such services directly and not through a contract with*  
25           *another entity.*

1           “(2) *APPLICATION OF SANCTIONS FOR VIOLA-*  
2           *TIONS.—The provisions of section 1128A(b)(2)(B) and*  
3           *1128B(d)(1) shall apply with respect to entities con-*  
4           *tracting directly or indirectly with a managed care*  
5           *entity (with a contract with a State under this title)*  
6           *for the provision of services to beneficiaries under*  
7           *such a contract in the same manner as such provi-*  
8           *sions would apply to the managed care entity if it*  
9           *provided such services directly and not through a con-*  
10          *tract with another entity.*

11   **“SEC. 1945. ASSURING QUALITY CARE.**

12          “(a) *EXTERNAL INDEPENDENT REVIEW OF MANAGED*  
13    *CARE ENTITY ACTIVITIES.—*

14               “(1) *REVIEW OF MEDICAID MANAGED CARE OR-*  
15    *GANIZATION CONTRACT.—*

16                   “(A) *IN GENERAL.—Except as provided in*  
17                   *paragraph (2), each medicaid managed care or-*  
18                   *ganization shall be subject to an annual external*  
19                   *independent review of the quality outcomes and*  
20                   *timeliness of, and access to, the items and serv-*  
21                   *ices specified in such organization’s contract*  
22                   *with the State under section 1941(a)(1)(B). Such*  
23                   *review shall specifically evaluate the extent to*  
24                   *which the medicaid managed care organization*  
25                   *provides such services in a timely manner.*

1           “(B) *CONTENTS OF REVIEW.*—*An external*  
2 *independent review conducted under this sub-*  
3 *section shall include—*

4                   “(i) *a review of the entity’s medical*  
5 *care, through sampling of medical records*  
6 *or other appropriate methods, for indica-*  
7 *tions of quality of care and inappropriate*  
8 *utilization (including overutilization) and*  
9 *treatment,*

10                   “(ii) *a review of enrollee inpatient and*  
11 *ambulatory data, through sampling of med-*  
12 *ical records or other appropriate methods,*  
13 *to determine trends in quality and appro-*  
14 *priateness of care,*

15                   “(iii) *notification of the entity and the*  
16 *State when the review under this paragraph*  
17 *indicates inappropriate care, treatment, or*  
18 *utilization of services (including overutili-*  
19 *zation), and*

20                   “(iv) *other activities as prescribed by*  
21 *the Secretary or the State.*

22           “(C) *USE OF PROTOCOLS.*—*An external*  
23 *independent review conducted under this sub-*  
24 *section on and after January 1, 1999, shall use*  
25 *protocols that have been developed, tested, and*

1           *validated by the Secretary and that are at least*  
2           *as rigorous as those used by the National Com-*  
3           *mittee on Quality Assurance as of the date of the*  
4           *enactment of this section.*

5           “(D) *AVAILABILITY OF RESULTS.*—*The re-*  
6           *sults of each external independent review con-*  
7           *ducted under this paragraph shall be available to*  
8           *participating health care providers, enrollees,*  
9           *and potential enrollees of the medicaid managed*  
10          *care organization, except that the results may*  
11          *not be made available in a manner that discloses*  
12          *the identity of any individual patient.*

13          “(2) *DEEMED COMPLIANCE.*—

14                 “(A) *MEDICARE ORGANIZATIONS.*—*The re-*  
15                 *quirements of paragraph (1) shall not apply*  
16                 *with respect to a medicaid managed care organi-*  
17                 *zation if the organization is an eligible organiza-*  
18                 *tion with a contract in effect under section 1876*  
19                 *or under part C of title XVIII.*

20                 “(B) *PRIVATE ACCREDITATION.*—

21                         “(i) *IN GENERAL.*—*The requirements*  
22                         *of paragraph (1) shall not apply with re-*  
23                         *spect to a medicaid managed care organiza-*  
24                         *tion if—*

1                   “(I) the organization is accredited  
2                   by an organization meeting the re-  
3                   quirements described in subparagraph  
4                   (C)), and

5                   “(II) the standards and process  
6                   under which the organization is ac-  
7                   credited meet such requirements as are  
8                   established under clause (ii), without  
9                   regard to whether or not the time re-  
10                  quirement of such clause is satisfied.

11                  “(ii) *STANDARDS AND PROCESS.*—Not  
12                  later than 180 days after the date of the en-  
13                  actment of this section, the Secretary shall  
14                  specify requirements for the standards and  
15                  process under which a medicaid managed  
16                  care organization is accredited by an orga-  
17                  nization meeting the requirements of sub-  
18                  paragraph (B).

19                  “(C) *ACCREDITING ORGANIZATION.*—An ac-  
20                  crediting organization meets the requirements of  
21                  this subparagraph if the organization—

22                         “(i) is a private, nonprofit organiza-  
23                         tion,

1                   “(ii) exists for the primary purpose of  
2                   accrediting managed care organizations or  
3                   health care providers, and

4                   “(iii) is independent of health care  
5                   providers or associations of health care pro-  
6                   viders.

7                   “(3) *REVIEW OF PRIMARY CARE CASE MANAGER*  
8                   *CONTRACT.*—Each primary care case manager shall  
9                   be subject to an annual external independent review  
10                  of the quality and timeliness of, and access to, the  
11                  items and services specified in the contract entered  
12                  into between the State and the primary care case  
13                  manager under section 1941(a)(1)(B).

14                  “(4) *USE OF VALIDATION SURVEYS.*—The Sec-  
15                  retary shall conduct surveys each year to validate ex-  
16                  ternal reviews of the number of managed care entities  
17                  in the year. In conducting such surveys the Secretary  
18                  shall use the same protocols as were used in preparing  
19                  the external reviews. If an external review finds that  
20                  an individual managed care entity meets applicable  
21                  requirements, but the Secretary determines that the  
22                  entity does not meet such requirements, the Sec-  
23                  retary’s determination as to the entity’s noncompli-  
24                  ance with such requirements is binding and super-  
25                  sedes that of the previous survey.

1           “(b) *FEDERAL MONITORING RESPONSIBILITIES.*—The  
2 *Secretary shall review the external independent reviews con-*  
3 *ducted pursuant to subsection (a) and shall monitor the ef-*  
4 *fectiveness of the State’s monitoring of managed care enti-*  
5 *ties and any followup activities required under this part.*  
6 *If the Secretary determines that a State’s monitoring and*  
7 *followup activities are not adequate to ensure that the re-*  
8 *quirements of such section are met, the Secretary shall un-*  
9 *dertake appropriate followup activities to ensure that the*  
10 *State improves its monitoring and followup activities.*

11           “(c) *PROVIDING INFORMATION ON SERVICES.*—

12                   “(1) *REQUIREMENTS FOR MEDICAID MANAGED*  
13 *CARE ORGANIZATIONS.*—*Each medicaid managed care*  
14 *organization shall provide to the State complete and*  
15 *timely information concerning the following:*

16                           “(A) *The services that the organization pro-*  
17 *vides to (or arranges to be provided to) individ-*  
18 *uals eligible for medical assistance under the*  
19 *State plan under this title.*

20                           “(B) *The identity, locations, qualifications,*  
21 *and availability of participating health care*  
22 *providers.*

23                           “(C) *The rights and responsibilities of en-*  
24 *rollees.*

1           “(D) *The services provided by the organiza-*  
2           *tion which are subject to prior authorization by*  
3           *the organization as a condition of coverage (in*  
4           *accordance with subsection (d)).*

5           “(E) *The procedures available to an enrollee*  
6           *and a health care provider to appeal the failure*  
7           *of the organization to cover a service.*

8           “(F) *The performance of the organization in*  
9           *servicing individuals eligible for medical assist-*  
10           *ance under the State plan under this title.*

11           *Such information shall be provided in a form consist-*  
12           *ent with the reporting of similar information by eligi-*  
13           *ble organizations under section 1876 or under part C*  
14           *of title XVIII.*

15           “(2) *REQUIREMENTS FOR PRIMARY CARE CASE*  
16           *MANAGERS.—Each primary care case manager*  
17           *shall—*

18           “(A) *provide to the State (at least at such*  
19           *frequency as the Secretary may require), com-*  
20           *plete and timely information concerning the*  
21           *services that the primary care case manager pro-*  
22           *vides to (or arranges to be provided to) individ-*  
23           *uals eligible for medical assistance under the*  
24           *State plan under this title,*

1           “(B) make available to enrollees and poten-  
2           tial enrollees information concerning services  
3           available to the enrollee for which prior author-  
4           ization by the primary care case manager is re-  
5           quired,

6           “(C) provide enrollees and potential enroll-  
7           ees information regarding all items and services  
8           that are available to enrollees under the contract  
9           between the State and the primary care case  
10          manager that are covered either directly or  
11          through a method of referral and prior author-  
12          ization, and

13          “(D) provide assurances that such entities  
14          and their professional personnel are licensed as  
15          required by State law and qualified to provide  
16          case management services, through methods such  
17          as ongoing monitoring of compliance with appli-  
18          cable requirements and providing information  
19          and technical assistance.

20          “(3) *REQUIREMENTS FOR BOTH MEDICAID MAN-*  
21          *AGED CARE ORGANIZATIONS AND PRIMARY CARE CASE*  
22          *MANAGERS.—Each managed care entity shall provide*  
23          *the State with aggregate encounter data for all items*  
24          *and services, including early and periodic screening,*  
25          *diagnostic, and treatment services under section*

1       1905(r) furnished to individuals under 21 years of  
2       age. Any such data provided may be audited by the  
3       State.

4       “(d) *CONDITIONS FOR PRIOR AUTHORIZATION.*—Sub-  
5       ject to section 1943, a managed care entity may require  
6       the approval of medical assistance for nonemergency serv-  
7       ices before the assistance is furnished to an enrollee only  
8       if the system providing for such approval provides that such  
9       decisions are made in a timely manner, depending upon  
10      the urgency of the situation.

11      “(e) *PATIENT ENCOUNTER DATA.*—Each medicaid  
12      managed care organization shall maintain sufficient pa-  
13      tient encounter data to identify the health care provider  
14      who delivers services to patients and to otherwise enable the  
15      State plan to meet the requirements of section 1902(a)(27)  
16      and shall submit such data to the State or the Secretary  
17      upon request. The medicaid managed care organization  
18      shall incorporate such information in the maintenance of  
19      patient encounter data with respect to such health care pro-  
20      vider.

21      “(f) *INCENTIVES FOR HIGH QUALITY MANAGED CARE*  
22      *ENTITIES.*—The Secretary and the State may establish a  
23      program to reward, through public recognition, incentive  
24      payments, or enrollment of additional individuals (or com-  
25      binations of such rewards), managed care entities that pro-

1 *vide the highest quality care to individuals eligible for med-*  
2 *ical assistance under the State plan under this title who*  
3 *are enrolled with such entities. For purposes of section*  
4 *1903(a)(7), proper expenses incurred by a State in carrying*  
5 *out such a program shall be considered to be expenses nec-*  
6 *essary for the proper and efficient administration of the*  
7 *State plan under this title.*

8       “(g) *QUALITY ASSURANCE STANDARDS.*—*Any contract*  
9 *between a State and a managed care entity shall provide—*

10               “(1) *that the State agency will develop and im-*  
11 *plement a State specific quality assessment and im-*  
12 *provement strategy, consistent with standards that the*  
13 *Secretary, in consultation with the States, shall estab-*  
14 *lish and monitor (but that shall not preempt any*  
15 *State standards that are more stringent than the*  
16 *standards established under this paragraph), and that*  
17 *includes—*

18               “(A) *standards for access to care so that*  
19 *covered services are available within reasonable*  
20 *timeframes and in a manner that ensures con-*  
21 *tinuity of care and adequate primary care and*  
22 *specialized services capacity; and*

23               “(B) *procedures for monitoring and evalu-*  
24 *ating the quality and appropriateness of care*  
25 *and services to beneficiaries that reflect the full*

1           *spectrum of populations enrolled in the plan and*  
2           *that include—*

3                     “(i) *requirements for provision of qual-*  
4                     *ity assurance data to the State using the*  
5                     *data and information set that the Sec-*  
6                     *retary, in consultation with the States, shall*  
7                     *specify with respect to entities contracting*  
8                     *under section 1876 or under part C of title*  
9                     *XVIII or alternative data requirements ap-*  
10                    *proved by the Secretary;*

11                   “(ii) *if necessary, an annual examina-*  
12                    *tion of the scope and content of the quality*  
13                    *improvement strategy; and*

14                   “(iii) *other aspects of care and service*  
15                    *directly related to the improvement of qual-*  
16                    *ity of care (including grievance procedures*  
17                    *and marketing and information standards),*

18                   “(2) *that entities entering into such agreements*  
19                    *under which payment is made on a prepaid capitated*  
20                    *or other risk basis shall be required—*

21                    “(A) *to submit to the State agency informa-*  
22                    *tion that demonstrates significant improvement*  
23                    *in the care delivered to members;*

24                    “(B) *to maintain an internal quality assur-*  
25                    *ance program consistent with paragraph (1),*

1           *and meeting standards that the Secretary, in*  
2           *consultation with the States, shall establish in*  
3           *regulations; and*

4                   “(C) *to provide effective procedures for hear-*  
5           *ing and resolving grievances between the entity*  
6           *and members enrolled with the entity under this*  
7           *section, and*

8                   “(3) *that provision is made, consistent with*  
9           *State law or with regulations under State law, with*  
10          *respect to the solvency of those entities, financial re-*  
11          *porting by those entities, and avoidance of waste,*  
12          *fraud, and abuse.*

13           “(h) *ANNUAL REPORT ON NON-HEALTH EXPENDI-*  
14          *TURES.—Each medicaid managed care organization shall*  
15          *annually provide to enrollees a statement disclosing the pro-*  
16          *portion of the premiums and other revenues received by the*  
17          *organization that are expended for non-health care items*  
18          *and services.*

19          “**SEC. 1946. PROTECTIONS FOR PROVIDERS.**

20                   “(a) *TIMELINESS OF PAYMENT.—A medicaid managed*  
21          *care organization shall make payment to health care pro-*  
22          *viders for items and services which are subject to the con-*  
23          *tract under section 1941(a)(1)(B) and which are furnished*  
24          *to individuals eligible for medical assistance under the*  
25          *State plan under this title who are enrolled with the entity*

1 *on a timely basis consistent with section 1943 and under*  
2 *the claims payment procedures described in section*  
3 *1902(a)(37)(A), unless the health care provider and the*  
4 *managed care entity agree to an alternate payment sched-*  
5 *ule.*

6       “(b) *PHYSICIAN INCENTIVE PLANS.—Each medicaid*  
7 *managed care organization shall require that any physi-*  
8 *cian incentive plan covering physicians who are participat-*  
9 *ing in the medicaid managed care organization shall meet*  
10 *the requirements of section 1876(i)(8) and comparable re-*  
11 *quirements under part C of title XVIII.*

12       “(c) *WRITTEN PROVIDER PARTICIPATION AGREE-*  
13 *MENTS FOR CERTAIN PROVIDERS.—*

14               “(1) *IN GENERAL.—Each medicaid managed*  
15 *care organization that enters into a written provider*  
16 *participation agreement with a provider described in*  
17 *paragraph (2) shall—*

18                       “(A) *include terms and conditions that are*  
19 *no more restrictive than the terms and condi-*  
20 *tions that the medicaid managed care organiza-*  
21 *tion includes in its agreements with other par-*  
22 *ticipating providers with respect to—*

23                               “(i) *the scope of covered services for*  
24 *which payment is made to the provider;*

1           “(ii) the assignment of enrollees by the  
2           organization to the provider;

3           “(iii) the limitation on financial risk  
4           or availability of financial incentives to the  
5           provider;

6           “(iv) accessibility of care;

7           “(v) professional credentialing and  
8           recredentialing;

9           “(vi) licensure;

10          “(vii) quality and utilization manage-  
11          ment;

12          “(viii) confidentiality of patient  
13          records;

14          “(ix) grievance procedures; and

15          “(x) indemnification arrangements be-  
16          tween the organizations and providers; and

17          “(B) provide for payment to the provider on  
18          a basis that is comparable to the basis on which  
19          other providers are paid.

20          “(2) PROVIDERS DESCRIBED.—The providers de-  
21          scribed in this paragraph are the following:

22                 “(A) Rural health clinics, as defined in sec-  
23                 tion 1905(l)(1).

24                 “(B) Federally-qualified health centers, as  
25                 defined in section 1905(l)(2)(B).

1           “(C) Clinics which are eligible to receive  
2           payment for services provided under title X of  
3           the Public Health Service Act.

4           “(d) PAYMENTS TO RURAL HEALTH CLINICS AND  
5           FEDERALLY-QUALIFIED HEALTH CENTERS.—Each medic-  
6           aid managed care organization that has a contract under  
7           this title with respect to the provision of services of a rural  
8           health clinic or a Federally-qualified health center shall  
9           provide, at the election of such clinic or center, that the  
10          organization shall provide payments to such a clinic or cen-  
11          ter for services described in 1905(a)(2)(C) at the rates of  
12          payment specified in section 1902(a)(13)(E).

13          “(e) ANTIDISCRIMINATION.—A managed care entity  
14          shall not discriminate with respect to participation, reim-  
15          bursement, or indemnification as to any provider who is  
16          acting within the scope of the provider’s license or certifi-  
17          cation under applicable State law, solely on the basis of  
18          such license or certification. This subsection shall not be  
19          construed to prohibit a managed care entity from including  
20          providers only to the extent necessary to meet the needs of  
21          the entity’s enrollees or from establishing any measure de-  
22          signed to maintain quality and control costs consistent with  
23          the responsibilities of the entity.

1 **“SEC. 1947. ASSURING ADEQUACY OF PAYMENTS TO MEDIC-**  
2 **AID MANAGED CARE ORGANIZATIONS AND**  
3 **ENTITIES.**

4 *A State shall find, determine, and make assurances*  
5 *satisfactory to the Secretary that the rates it pays a man-*  
6 *aged care entity for individuals eligible under the State*  
7 *plan have been determined by an independent actuary that*  
8 *meets the standards for qualification and practice estab-*  
9 *lished by the Actuarial Standards Board, to be sufficient*  
10 *and not excessive with respect to the estimated costs of the*  
11 *services provided.*

12 **“SEC. 1948. FRAUD AND ABUSE.**

13 *“(a) PROVISIONS APPLICABLE TO MANAGED CARE EN-*  
14 *TITIES.—*

15 *“(1) PROHIBITING AFFILIATIONS WITH INDIVID-*  
16 *UALS DEBARRED BY FEDERAL AGENCIES.—*

17 *“(A) IN GENERAL.—A managed care entity*  
18 *may not knowingly—*

19 *“(i) have a person described in sub-*  
20 *paragraph (C) as a director, officer, part-*  
21 *ner, or person with beneficial ownership of*  
22 *more than 5 percent of the entity’s equity,*  
23 *or*

24 *“(ii) have an employment, consulting,*  
25 *or other agreement with a person described*  
26 *in such subparagraph for the provision of*

1            *items and services that are significant and*  
2            *material to the entity’s obligations under its*  
3            *contract with the State.*

4            *“(B) EFFECT OF NONCOMPLIANCE.—If a*  
5            *State finds that a managed care entity is not in*  
6            *compliance with clause (i) or (ii) of subpara-*  
7            *graph (A), the State—*

8                    *“(i) shall notify the Secretary of such*  
9                    *noncompliance,*

10                    *“(ii) may continue an existing agree-*  
11                    *ment with the entity unless the Secretary*  
12                    *(in consultation with the Inspector General*  
13                    *of the Department of Health and Human*  
14                    *Services) directs otherwise, and*

15                    *“(iii) may not renew or otherwise ex-*  
16                    *tend the duration of an existing agreement*  
17                    *with the entity unless the Secretary (in con-*  
18                    *sultation with the Inspector General of the*  
19                    *Department of Health and Human Serv-*  
20                    *ices) provides to the State and to the Con-*  
21                    *gress a written statement describing compel-*  
22                    *ling reasons that exist for renewing or ex-*  
23                    *tending the agreement.*

24                    *“(C) PERSONS DESCRIBED.—A person is*  
25                    *described in this subparagraph if such person—*

1           “(i) is debarred, suspended, or other-  
2           wise excluded from participating in pro-  
3           curement activities under any Federal pro-  
4           curement or nonprocurement program or  
5           activity, as provided for in the Federal Ac-  
6           quisition Streamlining Act of 1994 (Public  
7           Law 103–355; 108 Stat. 3243), or

8           “(ii) is an affiliate (as defined in such  
9           Act) of a person described in clause (i).

10       “(2) RESTRICTIONS ON MARKETING.—

11       “(A) DISTRIBUTION OF MATERIALS.—

12       “(i) IN GENERAL.—A managed care  
13       entity may not distribute directly or  
14       through any agent or independent contrac-  
15       tor marketing materials within any State—

16           “(I) without the prior approval of  
17           the State, and

18           “(II) that contain false or materi-  
19           ally misleading information.

20       “(ii) CONSULTATION IN REVIEW OF  
21       MARKET MATERIALS.—In the process of re-  
22       viewing and approving such materials, the  
23       State shall provide for consultation with a  
24       medical care advisory committee.

1                   “(iii) *PROHIBITION.*—*The State may*  
2                   *not enter into or renew a contract with a*  
3                   *managed care entity for the provision of*  
4                   *services to individuals enrolled under the*  
5                   *State plan under this title if the State de-*  
6                   *termines that the entity distributed directly*  
7                   *or through any agent or independent con-*  
8                   *tractor marketing materials in violation of*  
9                   *clause (i).*

10                   “(B) *SERVICE MARKET.*—*A managed care*  
11                   *entity shall distribute marketing materials to the*  
12                   *entire service area of such entity.*

13                   “(C) *PROHIBITION OF TIE-INS.*—*A managed*  
14                   *care entity, or any agency of such entity, may*  
15                   *not seek to influence an individual’s enrollment*  
16                   *with the entity in conjunction with the sale of*  
17                   *any other insurance.*

18                   “(D) *PROHIBITING MARKETING FRAUD.*—  
19                   *Each managed care entity shall comply with*  
20                   *such procedures and conditions as the Secretary*  
21                   *prescribes in order to ensure that, before an indi-*  
22                   *vidual is enrolled with the entity, the individual*  
23                   *is provided accurate oral and written and suffi-*  
24                   *cient information to make an informed decision*  
25                   *whether or not to enroll.*

1           “(E) *PROHIBITION OF COLD CALL MARKET-*  
2           *ING.—Each managed care entity shall not, di-*  
3           *rectly or indirectly, conduct door-to-door, tele-*  
4           *phonic, or other ‘cold call’ marketing of enroll-*  
5           *ment under this title.*

6           “(b) *PROVISIONS APPLICABLE ONLY TO MEDICAID*  
7           *MANAGED CARE ORGANIZATIONS.—*

8           “(1) *STATE CONFLICT-OF-INTEREST SAFEGUARDS*  
9           *IN MEDICAID RISK CONTRACTING.—A medicaid man-*  
10          *aged care organization may not enter into a contract*  
11          *with any State under section 1941(a)(1)(B) unless the*  
12          *State has in effect conflict-of-interest safeguards with*  
13          *respect to officers and employees of the State with re-*  
14          *sponsibilities relating to contracts with such organi-*  
15          *zations or to the default enrollment process described*  
16          *in section 1941(a)(1)(F) that are at least as effective*  
17          *as the Federal safeguards provided under section 27*  
18          *of the Office of Federal Procurement Policy Act (41*  
19          *U.S.C. 423), against conflicts of interest that apply*  
20          *with respect to Federal procurement officials with*  
21          *comparable responsibilities with respect to such con-*  
22          *tracts.*

23          “(2) *REQUIRING DISCLOSURE OF FINANCIAL IN-*  
24          *FORMATION.—In addition to any requirements appli-*  
25          *cable under paragraph (27) or (35) of section*

1       1902(a), a medicaid managed care organization  
2 shall—

3               “(A) report to the State such financial in-  
4 formation as the State may require to dem-  
5 onstrate that—

6                       “(i) the organization has the ability to  
7 bear the risk of potential financial losses  
8 and otherwise has a fiscally sound oper-  
9 ation;

10                      “(ii) the organization uses the funds  
11 paid to it by the State for activities consist-  
12 ent with the requirements of this title and  
13 the contract between the State and organi-  
14 zation; and

15                      “(iii) the organization does not place  
16 an individual physician, physician group,  
17 or other health care provider at substantial  
18 risk for services not provided by such physi-  
19 cian, group, or health care provider, by pro-  
20 viding adequate protection to limit the li-  
21 ability of such physician, group, or health  
22 care provider, through measures such as  
23 stop loss insurance or appropriate risk cor-  
24 ridors,

1           “(B) agree that the Secretary and the State  
2           (or any person or organization designated by ei-  
3           ther) shall have the right to audit and inspect  
4           any books and records of the organization (and  
5           of any subcontractor) relating to the information  
6           reported pursuant to subparagraph (A) and any  
7           information required to be furnished under sec-  
8           tion paragraphs (27) or (35) of section 1902(a),

9           “(C) make available to the Secretary and  
10          the State a description of each transaction de-  
11          scribed in subparagraphs (A) through (C) of sec-  
12          tion 1318(a)(3) of the Public Health Service Act  
13          between the organization and a party in interest  
14          (as defined in section 1318(b) of such Act),

15          “(D) agree to make available to its enrollees  
16          upon reasonable request—

17                  “(i) the information reported pursuant  
18                  to subparagraph (A); and

19                  “(ii) the information required to be  
20                  disclosed under sections 1124 and 1126,

21          “(E) comply with subsections (a) and (c) of  
22          section 1318 of the Public Health Service Act  
23          (relating to disclosure of certain financial infor-  
24          mation) and with the requirement of section

1           1301(c)(8) of such Act (relating to liability ar-  
2           rangements to protect members), and

3           “(F) notify the State of loans and other spe-  
4           cial financial arrangements which are made be-  
5           tween the organization and subcontractors, affili-  
6           ates, and related parties.

7           Each State is required to conduct audits on the books  
8           and records of at least 1 percent of the number of  
9           medicaid managed care organizations operating in  
10          the State.

11          “(3) ADEQUATE PROVISION AGAINST RISK OF IN-  
12          SOLVENCY.—

13                 “(A) ESTABLISHMENT OF STANDARDS.—The  
14                 Secretary shall establish standards, including  
15                 appropriate equity standards, under which each  
16                 medicaid managed care organization shall make  
17                 adequate provision against the risk of insolvency.

18                 “(B) CONSIDERATION OF OTHER STAND-  
19                 ARDS.—In establishing the standards described  
20                 in subparagraph (A), the Secretary shall con-  
21                 sider solvency standards applicable to eligible or-  
22                 ganizations with a risk-sharing contract under  
23                 section 1876 or under part C of title XVIII.

24                 “(C) MODEL CONTRACT ON SOLVENCY.—At  
25                 the earliest practicable time after the date of the

1           *enactment of this section, the Secretary shall*  
2           *issue guidelines concerning solvency standards*  
3           *for risk contracting entities and subcontractors*  
4           *of such risk contracting entities. Such guidelines*  
5           *shall take into account characteristics that may*  
6           *differ among risk contracting entities, including*  
7           *whether such an entity is at risk for inpatient*  
8           *hospital services.*

9           “(4) *REQUIRING REPORT ON NET EARNINGS AND*  
10          *ADDITIONAL BENEFITS.—Each medicaid managed*  
11          *care organization shall submit a report to the State*  
12          *not later than 12 months after the close of a contract*  
13          *year containing the most recent audited financial*  
14          *statement of the organization’s net earnings and con-*  
15          *sistent with generally accepted accounting principles.*

16          “(c) *DISCLOSURE OF OWNERSHIP AND RELATED IN-*  
17          *FORMATION.—Each medicaid managed care organization*  
18          *shall provide for disclosure of information in accordance*  
19          *with section 1124.*

20          “(d) *DISCLOSURE OF TRANSACTION INFORMATION.—*

21                 “(1) *IN GENERAL.—Each medicaid managed*  
22          *care organization which is not a qualified health*  
23          *maintenance organization (as defined in section*  
24          *1310(d) of the Public Health Service Act) shall report*  
25          *to the State and, upon request, to the Secretary, the*

1     *Inspector General of the Department of Health and*  
2     *Human Services, and the Comptroller General, a de-*  
3     *scription of transactions between the organization*  
4     *and a party in interest (as defined in section 1318(b)*  
5     *of such Act), including the following transactions:*

6             “(A) *Any sale or exchange, or leasing of*  
7             *any property between the organization and such*  
8             *a party.*

9             “(B) *Any furnishing for consideration of*  
10            *goods, services (including management services),*  
11            *or facilities between the organization and such a*  
12            *party, but not including salaries paid to employ-*  
13            *ees for services provided in the normal course of*  
14            *their employment.*

15            “(C) *Any lending of money or other exten-*  
16            *sion of credit between the organization and such*  
17            *a party.*

18     *The State or Secretary may require that information*  
19     *reported respecting an organization which controls, or*  
20     *is controlled by, or is under common control with, an-*  
21     *other entity be in the form of a consolidated financial*  
22     *statement for the organization and such entity.*

23            “(2) *DISCLOSURE TO ENROLLEES.—Each such*  
24     *organization shall make the information reported*

1       *pursuant to paragraph (1) available to its enrollees*  
2       *upon reasonable request.*

3       “(e) *CONTRACT OVERSIGHT.*—

4               “(1) *IN GENERAL.*—*The Secretary must provide*  
5       *prior review and approval for contracts under this*  
6       *part with a medicaid managed care organization pro-*  
7       *viding for expenditures under this title in excess of*  
8       *\$1,000,000.*

9               “(2) *INSPECTOR GENERAL REVIEW.*—*As part of*  
10       *such approval process, the Inspector General in the*  
11       *Department of Health and Human Services, effective*  
12       *October 1, 1997, shall make a determination (to the*  
13       *extent practicable) as to whether persons with an*  
14       *ownership interest (as defined in section 1124(a)(3))*  
15       *or an officer, director, agent, or managing employee*  
16       *(as defined in section 1126(b)) of the organization are*  
17       *or have been described in subsection (a)(1)(C) based*  
18       *on a ground relating to fraud, theft, embezzlement,*  
19       *breach of fiduciary responsibility, or other financial*  
20       *misconduct or obstruction of an investigation.*

21       “(f) *LIMITATION ON AVAILABILITY OF FFP FOR USE*  
22       *OF ENROLLMENT BROKERS.*—*Amounts expended by a State*  
23       *for the use of an enrollment broker in marketing managed*  
24       *care entities to eligible individuals under this title shall be*  
25       *considered, for purposes of section 1903(a)(7), to be nec-*

1 *essary for the proper and efficient administration of the*  
2 *State plan but only if the following conditions are met with*  
3 *respect to the broker:*

4           “(1) *The broker is independent of any such en-*  
5 *tity and of any health care providers (whether or not*  
6 *any such provider participates in the State plan*  
7 *under this title) that provide coverage of services in*  
8 *the same State in which the broker is conducting en-*  
9 *rollment activities.*

10           “(2) *No person who is an owner, employee, con-*  
11 *sultant, or has a contract with the broker either has*  
12 *any direct or indirect financial interest with such an*  
13 *entity or health care provider or has been excluded*  
14 *from participation in the program under this title or*  
15 *title XVIII or debarred by any Federal agency, or*  
16 *subject to a civil money penalty under this Act.*

17           “(g) *USE OF UNIQUE PHYSICIAN IDENTIFIER FOR*  
18 *PARTICIPATING PHYSICIANS.—Each medicaid managed*  
19 *care organization shall require each physician providing*  
20 *services to enrollees eligible for medical assistance under the*  
21 *State plan under this title to have a unique identifier in*  
22 *accordance with the system established under section*  
23 *1173(b).*

24           “(h) *SECRETARIAL RECOVERY OF FFP FOR CAPITA-*  
25 *TION PAYMENTS FOR INSOLVENT MANAGED CARE ENTI-*

1 *TIES.—The Secretary shall provide for the recovery and off-*  
2 *set against any amount owed a State under section*  
3 *1903(a)(1) in an amount equal to the amounts paid to the*  
4 *State for medical assistance provided under such section,*  
5 *for expenditures for capitation payments to a managed care*  
6 *entity that becomes insolvent or for services contracted for*  
7 *with, but not provided by, such organization.*

8 **“SEC. 1949. SANCTIONS FOR NONCOMPLIANCE BY MAN-**  
9 **AGED CARE ENTITIES.**

10 *“(a) USE OF INTERMEDIATE SANCTIONS BY THE*  
11 *STATE TO ENFORCE REQUIREMENTS.—*

12 *“(1) IN GENERAL.—Each State shall establish*  
13 *intermediate sanctions, which may include any of the*  
14 *types described in subsection (b) other than the termi-*  
15 *nation of a contract with a managed care entity,*  
16 *which the State may impose against a managed care*  
17 *entity with a contract under section 1941(a)(1)(B) if*  
18 *the entity—*

19 *“(A) fails substantially to provide medically*  
20 *necessary items and services that are required*  
21 *(under law or under such entity’s contract with*  
22 *the State) to be provided to an enrollee covered*  
23 *under the contract,*

1           “(B) imposes premiums or charges on en-  
2           rollees in excess of the premiums or charges per-  
3           mitted under this title,

4           “(C) acts to discriminate among enrollees  
5           on the basis of their health status or require-  
6           ments for health care services, including expul-  
7           sion or refusal to reenroll an individual, except  
8           as permitted by this part, or engaging in any  
9           practice that would reasonably be expected to  
10          have the effect of denying or discouraging enroll-  
11          ment with the entity by eligible individuals  
12          whose medical condition or history indicates a  
13          need for substantial future medical services,

14          “(D) misrepresents or falsifies information  
15          that is furnished—

16                 “(i) to the Secretary or the State under  
17                 this part; or

18                 “(ii) to an enrollee, potential enrollee,  
19                 or a health care provider under such sec-  
20                 tions, or

21          “(E) fails to comply with the requirements  
22          of section 1876(i)(8) (or comparable require-  
23          ments under part C of title XVIII) or this part.

24          “(2) *RULE OF CONSTRUCTION.*—For purposes of  
25          paragraph (1)(A), the term ‘medically necessary’ shall

1       *not be construed as requiring an abortion be per-*  
2       *formed for any individual, except if necessary to save*  
3       *the life of the mother or if a pregnancy is the result*  
4       *of an act of rape or incest.*

5       “(b) *INTERMEDIATE SANCTIONS.*—*The sanctions de-*  
6       *scribed in this subsection are as follows:*

7               “(1) *Civil money penalties as follows:*

8                       “(A) *Except as provided in subparagraph*  
9                       *(B), (C), or (D), not more than \$25,000 for each*  
10                      *determination under subsection (a).*

11                     “(B) *With respect to a determination under*  
12                     *paragraph (3) or (4)(A) of subsection (a), not*  
13                     *more than \$100,000 for each such determination.*

14                     “(C) *With respect to a determination under*  
15                     *subsection (a)(2), double the excess amount*  
16                     *charged in violation of such subsection (and the*  
17                     *excess amount charged shall be deducted from the*  
18                     *penalty and returned to the individual con-*  
19                     *cerned).*

20                     “(D) *Subject to subparagraph (B), with re-*  
21                     *spect to a determination under subsection (a)(3),*  
22                     *\$15,000 for each individual not enrolled as a re-*  
23                     *sult of a practice described in such subsection.*

24               “(2) *The appointment of temporary manage-*  
25       *ment—*

1           “(A) to oversee the operation of the medic-  
2           aid-only managed care entity upon a finding by  
3           the State that there is continued egregious behav-  
4           ior by the plan, or

5           “(B) to assure the health of the entity’s en-  
6           rollees, if there is a need for temporary manage-  
7           ment while—

8                   “(i) there is an orderly termination or  
9                   reorganization of the managed care entity;  
10                  or

11                  “(ii) improvements are made to rem-  
12                  edy the violations found under subsection  
13                  (a),

14           except that temporary management under this para-  
15           graph may not be terminated until the State has de-  
16           termined that the managed care entity has the capa-  
17           bility to ensure that the violations shall not recur.

18           “(3) Permitting individuals enrolled with the  
19           managed care entity to terminate enrollment without  
20           cause, and notifying such individuals of such right to  
21           terminate enrollment.

22           “(4) Suspension or default of all enrollment of  
23           individuals under this title after the date the Sec-  
24           retary or the State notifies the entity of a determina-  
25           tion of a violation of any requirement of this part.

1           “(5) *Suspension of payment to the entity under*  
2           *this title for individuals enrolled after the date the*  
3           *Secretary or State notifies the entity of such a deter-*  
4           *mination and until the Secretary or State is satisfied*  
5           *that the basis for such determination has been cor-*  
6           *rected and is not likely to recur.*

7           “(c) *TREATMENT OF CHRONIC SUBSTANDARD ENTI-*  
8           *TIES.—In the case of a managed care entity which has re-*  
9           *peatedly failed to meet the requirements of sections 1942*  
10           *through 1946, the State shall (regardless of what other sanc-*  
11           *tions are provided) impose the sanctions described in para-*  
12           *graphs (2) and (3) of subsection (b).*

13           “(d) *AUTHORITY TO TERMINATE CONTRACT.—In the*  
14           *case of a managed care entity which has failed to meet the*  
15           *requirements of this part, the State shall have the authority*  
16           *to terminate its contract with such entity under section*  
17           *1941(a)(1)(B) and to enroll such entity’s enrollees with*  
18           *other managed care entities (or to permit such enrollees to*  
19           *receive medical assistance under the State plan under this*  
20           *title other than through a managed care entity).*

21           “(e) *AVAILABILITY OF SANCTIONS TO THE SEC-*  
22           *RETARY.—*

23           “(1) *INTERMEDIATE SANCTIONS.—In addition to*  
24           *the sanctions described in paragraph (2) and any*  
25           *other sanctions available under law, the Secretary*

1     *may provide for any of the sanctions described in*  
2     *subsection (b) if the Secretary determines that a man-*  
3     *aged care entity with a contract under section*  
4     *1941(a)(1)(B) fails to meet any of the requirements of*  
5     *this part.*

6             “(2) *DENIAL OF PAYMENTS TO THE STATE.—The*  
7     *Secretary may deny payments to the State for medi-*  
8     *cal assistance furnished under the contract under sec-*  
9     *tion 1941(a)(1)(B) for individuals enrolled after the*  
10    *date the Secretary notifies a managed care entity of*  
11    *a determination under subsection (a) and until the*  
12    *Secretary is satisfied that the basis for such deter-*  
13    *mination has been corrected and is not likely to recur.*

14           “(f) *DUE PROCESS FOR MANAGED CARE ENTITIES.—*

15             “(1) *AVAILABILITY OF HEARING PRIOR TO TER-*  
16    *MINATION OF CONTRACT.—A State may not terminate*  
17    *a contract with a managed care entity under section*  
18    *1941(a)(1)(B) unless the entity is provided with a*  
19    *hearing prior to the termination.*

20             “(2) *NOTICE TO ENROLLEES OF TERMINATION*  
21    *HEARING.—A State shall notify all individuals en-*  
22    *rolled with a managed care entity which is the subject*  
23    *of a hearing to terminate the entity’s contract with*  
24    *the State of the hearing and that the enrollees may*  
25    *immediately disenroll with the entity without cause.*

1           “(3) *OTHER PROTECTIONS FOR MANAGED CARE*  
2           *ENTITIES AGAINST SANCTIONS IMPOSED BY STATE.—*  
3           *Before imposing any sanction against a managed*  
4           *care entity other than termination of the entity’s con-*  
5           *tract, the State shall provide the entity with notice*  
6           *and such other due process protections as the State*  
7           *may provide, except that a State may not provide a*  
8           *managed care entity with a pre-termination hearing*  
9           *before imposing the sanction described in subsection*  
10          *(b)(2).*

11           “(4) *IMPOSITION OF CIVIL MONETARY PENALTIES*  
12          *BY SECRETARY.—The provisions of section 1128A*  
13          *(other than subsections (a) and (b)) shall apply with*  
14          *respect to a civil money penalty imposed by the Sec-*  
15          *retary under subsection (b)(1) in the same manner as*  
16          *such provisions apply to a penalty or proceeding*  
17          *under section 1128A.*

18          **“SEC. 1950. DEFINITIONS; MISCELLANEOUS PROVISIONS.**

19          “(a) *DEFINITIONS.—For purposes of this title:*

20                 “(1) *MANAGED CARE ENTITY.—The term ‘man-*  
21                 *aged care entity’ means—*

22                         “(A) *a medicaid managed care organiza-*  
23                         *tion; or*

24                         “(B) *a primary care case manager.*

1           “(2) *MEDICAID MANAGED CARE ORGANIZA-*  
2           *TION.*—*The term ‘medicaid managed care organiza-*  
3           *tion’ means a health maintenance organization, an*  
4           *eligible organization with a contract under section*  
5           *1876 or under part C of title XVIII, a provider spon-*  
6           *sored network, or any other organization which is or-*  
7           *ganized under the laws of a State, has made adequate*  
8           *provision (as determined under standards established*  
9           *for purposes of eligible organizations under section*  
10           *1876 or under part C of title XVIII, and through its*  
11           *capitalization or otherwise) against the risk of insol-*  
12           *vency, and provides or arranges for the provision of*  
13           *one or more items and services to individuals eligible*  
14           *for medical assistance under the State plan under*  
15           *this title in accordance with a contract with the State*  
16           *under section 1941(a)(1)(B).*

17           “(3) *PRIMARY CARE CASE MANAGER.*—

18           “(A) *IN GENERAL.*—*The term ‘primary care*  
19           *case manager’ has the meaning given such term*  
20           *in section 1905(t)(2).”.*

21           (b) *STUDIES AND REPORTS.*—

22           (1) *REPORT ON PUBLIC HEALTH SERVICES.*—

23           (A) *IN GENERAL.*—*Not later than January*  
24           *1, 1998, the Secretary of Health and Human*  
25           *Services (in this subsection referred to as the*

1           “Secretary”) shall report to the Committee on  
2           Finance of the Senate and the Committee on  
3           Commerce of the House of Representatives on the  
4           effect of managed care entities (as defined in sec-  
5           tion 1950(a)(1) of the Social Security Act) on  
6           the delivery of and payment for the services tra-  
7           ditionally provided through providers described  
8           in section 1941(a)(2)(B)(i) of such Act.

9                   (B) CONTENTS OF REPORT.—The report re-  
10           ferred to in subparagraph (A) shall include—

11                   (i) information on the extent to which  
12                   enrollees with eligible managed care entities  
13                   seek services at local health departments,  
14                   public hospitals, and other facilities that  
15                   provide care without regard to a patient’s  
16                   ability to pay;

17                   (ii) information on the extent to which  
18                   the facilities described in clause (i) provide  
19                   services to enrollees with eligible managed  
20                   care entities without receiving payment;

21                   (iii) information on the effectiveness of  
22                   systems implemented by facilities described  
23                   in clause (i) for educating such enrollees on  
24                   services that are available through eligible

1           *managed care entities with which such en-*  
2           *rollees are enrolled;*

3                     *(iv) to the extent possible, identifica-*  
4           *tion of the types of services most frequently*  
5           *sought by such enrollees at such facilities;*  
6           *and*

7                     *(v) recommendations about how to en-*  
8           *sure the timely delivery of the services tra-*  
9           *ditionally provided through providers de-*  
10          *scribed in section 1941(a)(2)(B)(i) of the*  
11          *Social Security Act to enrollees of managed*  
12          *care entities and how to ensure that local*  
13          *health departments, public hospitals, and*  
14          *other facilities are adequately compensated*  
15          *for the provision of such services to such en-*  
16          *rollees.*

17          (2) *REPORT ON PAYMENTS TO HOSPITALS.—*

18                     *(A) IN GENERAL.—Not later than October 1*  
19          *of each year, beginning with October 1, 1998, the*  
20          *Secretary and the Comptroller General shall*  
21          *analyze and submit a report to the Committee on*  
22          *Finance of the Senate and the Committee on*  
23          *Commerce of the House of Representatives on*  
24          *rates paid for hospital services under managed*

1           *care entities under contracts under section*  
2           *1941(a)(1)(B) of the Social Security Act.*

3           *(B) CONTENTS OF REPORT.—The informa-*  
4           *tion in the report described in subparagraph (A)*  
5           *shall—*

6                     *(i) be organized by State, type of hos-*  
7                     *pital, type of service; and*

8                     *(ii) include a comparison of rates paid*  
9                     *for hospital services under managed care*  
10                    *entities with rates paid for hospital services*  
11                    *furnished to individuals who are entitled to*  
12                    *benefits under a State plan under title XIX*  
13                    *of the Social Security Act and are not en-*  
14                    *rolled with such entities.*

15           *(3) REPORTS BY STATES.—Each State shall*  
16           *transmit to the Secretary, at such time and in such*  
17           *manner as the Secretary determines appropriate, the*  
18           *information on hospital rates submitted to such State*  
19           *under section 1947(b)(2) of the Social Security Act.*

20           *(4) INDEPENDENT STUDY AND REPORT ON QUAL-*  
21           *ITY ASSURANCE AND ACCREDITATION STANDARDS.—*

22           *The Institute of Medicine of the National Academy of*  
23           *Sciences shall conduct a study and analysis of the*  
24           *quality assurance programs and accreditation stand-*  
25           *ards applicable to managed care entities operating in*

1     *the private sector or to such entities that operate*  
2     *under contracts under the medicare program under*  
3     *title XVIII of the Social Security Act to determine if*  
4     *such programs and standards include consideration of*  
5     *the accessibility and quality of the health care items*  
6     *and services delivered under such contracts to low-in-*  
7     *come individuals.*

8     (c) *CONFORMING AMENDMENTS.*—

9         (1) *REPEAL OF CURRENT REQUIREMENTS.*—

10             (A) *IN GENERAL.*—*Except as provided in*  
11             *subparagraph (B), section 1903(m) (42 U.S.C.*  
12             *1396b(m)) is repealed on the date of the enact-*  
13             *ment of this Act.*

14             (B) *EXISTING CONTRACTS.*—*In the case of*  
15             *any contract under section 1903(m) of such Act*  
16             *which is in effect on the day before the date of*  
17             *the enactment of this Act, the provisions of such*  
18             *section shall apply to such contract until the ear-*  
19             *lier of—*

20                 (i) *the day after the date of the expira-*  
21                 *tion of the contract; or*

22                 (ii) *the date which is 1 year after the*  
23                 *date of the enactment of this Act.*

24         (2) *FEDERAL FINANCIAL PARTICIPATION.*—

1           (A) *CLARIFICATION OF APPLICATION OF FFP*  
2           *DENIAL RULES TO PAYMENTS MADE PURSUANT*  
3           *TO MANAGED CARE ENTITIES.*—Section 1903(i)  
4           (42 U.S.C. 1396b(i)) is amended by adding at  
5           the end the following new sentence: “Paragraphs  
6           (1)(A), (1)(B), (2), (5), and (12) shall apply  
7           with respect to items or services furnished and  
8           amounts expended by or through a managed care  
9           entity (as defined in section 1950(a)(1)) in the  
10          same manner as such paragraphs apply to items  
11          or services furnished and amounts expended di-  
12          rectly by the State.”.

13          (B) *FFP FOR EXTERNAL QUALITY REVIEW*  
14          *ORGANIZATIONS.*—Section 1903(a)(3)(C) (42  
15          U.S.C. 1396b(a)(3)(C)) is amended—

16                 (i) by inserting “(i)” after “(C)”, and

17                 (ii) by adding at the end the following

18                 new clause:

19                 “(ii) 75 percent of the sums expended with  
20                 respect to costs incurred during such quarter (as  
21                 found necessary by the Secretary for the proper  
22                 and efficient administration of the State plan)  
23                 as are attributable to the performance of inde-  
24                 pendent external reviews of managed care enti-  
25                 ties (as defined in section 1950(a)(1)) by exter-

1            *nal quality review organizations, but only if*  
2            *such organizations conduct such reviews under*  
3            *protocols approved by the Secretary and only in*  
4            *the case of such organizations that meet stand-*  
5            *ards established by the Secretary relating to the*  
6            *independence of such organizations from agencies*  
7            *responsible for the administration of this title or*  
8            *eligible managed care entities; and”.*

9            (3) *EXCLUSION OF CERTAIN INDIVIDUALS AND*  
10          *ENTITIES FROM PARTICIPATION IN PROGRAM.—Section*  
11          *1128(b)(6)(C) (42 U.S.C. 1320a–7(b)(6)(C)) is*  
12          *amended—*

13                  (A) *in clause (i), by striking “a health*  
14                  *maintenance organization (as defined in section*  
15                  *1903(m))” and inserting “a managed care en-*  
16                  *tity, as defined in section 1950(a)(1),”; and*

17                  (B) *in clause (ii), by inserting “section*  
18                  *1115 or” after “approved under”.*

19            (4) *STATE PLAN REQUIREMENTS.—Section 1902*  
20          *(42 U.S.C. 1396a) is amended—*

21                  (A) *in subsection (a)(30)(C), by striking*  
22                  *“section 1903(m)” and inserting “section*  
23                  *1941(a)(1)(B)”;* and

24                  (B) *in subsection (a)(57), by striking*  
25                  *“health maintenance organization (as defined in*

1           *section 1903(m)(1)(A))” and inserting “managed*  
2           *care entity, as defined in section 1950(a)(1)”;*

3           *(C) in subsection (e)(2)(A), by striking “or*  
4           *with an entity described in paragraph*  
5           *(2)(B)(iii), (2)(E), (2)(G), or (6) of section*  
6           *1903(m) under a contract described in section*  
7           *1903(m)(2)(A)” and inserting “or with a man-*  
8           *aged care entity, as defined in section*  
9           *1950(a)(1);*

10           *(D) in subsection (p)(2)—*

11           *(i) by striking “a health maintenance*  
12           *organization (as defined in section*  
13           *1903(m))” and inserting “a managed care*  
14           *entity, as defined in section 1950(a)(1),”;*

15           *(ii) by striking “an organization” and*  
16           *inserting “an entity”; and*

17           *(iii) by striking “any organization”*  
18           *and inserting “any entity”; and*

19           *(E) in subsection (w)(1), by striking “sec-*  
20           *tions 1903(m)(1)(A) and” and inserting “sec-*  
21           *tion”.*

22           (5)       *PAYMENT TO STATES.—Section*  
23           *1903(w)(7)(A)(viii) (42 U.S.C. 1396b(w)(7)(A)(viii))*  
24           *is amended to read as follows:*

1                   “(viii) *Services of a managed care en-*  
2                   *tity with a contract under section*  
3                   *1941(a)(1)(B).*”.

4                   (6) *USE OF ENROLLMENT FEES AND OTHER*  
5                   *CHARGES.—Section 1916 (42 U.S.C. 1396o) is*  
6                   *amended in subsections (a)(2)(D) and (b)(2)(D) by*  
7                   *striking “a health maintenance organization (as de-*  
8                   *fined in section 1903(m))” and inserting “a managed*  
9                   *care entity, as defined in section 1950(a)(1),” each*  
10                  *place it appears.*

11                  (7) *EXTENSION OF ELIGIBILITY FOR MEDICAL*  
12                  *ASSISTANCE.—Section 1925(b)(4)(D)(iv) (42 U.S.C.*  
13                  *1396r-6(b)(4)(D)(iv)) is amended to read as follows:*

14                         “(iv) *ENROLLMENT WITH MANAGED*  
15                         *CARE ENTITY.—Enrollment of the caretaker*  
16                         *relative and dependent children with a*  
17                         *managed care entity, as defined in section*  
18                         *1950(a)(1), less than 50 percent of the mem-*  
19                         *bership (enrolled on a prepaid basis) of*  
20                         *which consists of individuals who are eligi-*  
21                         *ble to receive benefits under this title (other*  
22                         *than because of the option offered under this*  
23                         *clause). The option of enrollment under this*  
24                         *clause is in addition to, and not in lieu of,*  
25                         *any enrollment option that the State might*

1           offer under subparagraph (A)(i) with re-  
2           spect to receiving services through a man-  
3           aged care entity in accordance with part  
4           B.”.

5           (8) *PAYMENT FOR COVERED OUTPATIENT*  
6           *DRUGS.*—Section 1927(j)(1) (42 U.S.C. 1396r–8(j)(1))  
7           is amended by striking “\*\*\*Health Maintenance Or-  
8           ganizations, including those organizations that con-  
9           tract under section 1903(m),” and inserting “health  
10          maintenance organizations and medicaid managed  
11          care organizations, as defined in section 1950(a)(2),”.

12          (9) *APPLICATION OF SANCTIONS FOR BALANCED*  
13          *BILLING THROUGH SUBCONTRACTORS.*—(A) Section  
14          1128A(b)(2)(B) (42 U.S.C. 1320a–7a(b)) is amended  
15          by inserting “, including section 1944(b)” after “title  
16          XIX”.

17          (B) Section 1128B(d)(1) (42 U.S.C. 1320a–  
18          7b(d)(1)) is amended by inserting “or, in the case of  
19          an individual enrolled with a managed care entity  
20          under part B of title XIX, the applicable rates estab-  
21          lished by the entity under the agreement with the  
22          State agency under such part” after “established by  
23          the State”.

24          (10) *REPEAL OF CERTAIN RESTRICTIONS ON OB-*  
25          *STETRICAL AND PEDIATRIC PROVIDERS.*—Section

1       1903(i) (42 U.S.C. 1396b(i)) is amended by striking  
2       paragraph (12).

3               (11) *DEMONSTRATION PROJECTS TO STUDY EF-*  
4       *FECT OF ALLOWING STATES TO EXTEND MEDICAID*  
5       *COVERAGE FOR CERTAIN FAMILIES.*—Section  
6       4745(a)(5)(A) of the Omnibus Budget Reconciliation  
7       Act of 1990 (42 U.S.C. 1396a note) is amended by  
8       striking “(except section 1903(m))” and inserting  
9       “(except part B)”.

10              (12) *CONFORMING AMENDMENT FOR DISCLOSURE*  
11       *REQUIREMENTS FOR MANAGED CARE ENTITIES.*—Sec-  
12       tion 1124(a)(2)(A) (42 U.S.C. 1320a–3(a)(2)(A)) is  
13       amended by inserting “managed care entity under  
14       title XIX,” after “renal dialysis facility,”.

15              (13) *ELIMINATION OF REGULATORY PAYMENT*  
16       *CAP.*—The Secretary of Health and Human Services  
17       may not, under the authority of section  
18       1902(a)(30)(A) of the Social Security Act or any  
19       other provision of title XIX of such Act, impose a  
20       limit by regulation on the amount of the capitation  
21       payments that a State may make to qualified entities  
22       under such title, and section 447.361 of title 42, Code  
23       of Federal Regulations (relating to upper limits of  
24       payment: risk contracts), is hereby nullified.

1           (14) *CONTINUATION OF ELIGIBILITY.*—Section  
2           1902(e)(2) (42 U.S.C. 1396a(e)(2)) is amended to  
3           read as follows:

4           “(2) For provision providing for extended liability in  
5           the case of certain beneficiaries enrolled with managed care  
6           entities, see section 1941(c).”.

7           (15) *CONFORMING AMENDMENTS TO FREEDOM-*  
8           *OF-CHOICE PROVISIONS.*—Section 1902(a)(23) (42  
9           U.S.C. 1396a(a)(23)) is amended—

10           (A) in the matter preceding subparagraph  
11           (A), by striking “subsection (g) and in section  
12           1915” and inserting “subsection (g), section  
13           1915, and section 1941,”; and

14           (B) in subparagraph (B), by striking “a  
15           health maintenance organization, or a” and in-  
16           serting “or with a managed care entity, as de-  
17           fined in section 1950(a)(1), or”.

18           (d) *EFFECTIVE DATE; STATUS OF WAIVERS.*—

19           (1) *EFFECTIVE DATE.*—Except as provided in  
20           paragraph (2), the amendments made by this section  
21           shall apply to medical assistance furnished—

22           (A) during quarters beginning on or after  
23           October 1, 1997; or

24           (B) in the case of assistance furnished  
25           under a contract described in subsection

1           (c)(1)(B), during quarters beginning after the  
2           earlier of—

3                   (i) the date of the expiration of the  
4                   contract; or

5                   (ii) the expiration of the 1-year period  
6                   which begins on the date of the enactment  
7                   of this Act.

8           (2) *APPLICATION TO WAIVERS.*—If any waiver  
9           granted to a State under section 1115 or 1915 of the  
10          Social Security Act (42 U.S.C. 1315, 1396n), or oth-  
11          erwise, which relates to the provision of medical as-  
12          sistance under a State plan under title XIX of the  
13          such Act (42 U.S.C. 1396 et seq.), is in effect or ap-  
14          proved by the Secretary of Health and Human Serv-  
15          ices as of the applicable effective date described in  
16          paragraph (1), the amendments made by this section  
17          shall not apply with respect to the State before the ex-  
18          piration (determined without regard to any exten-  
19          sions) of the waiver to the extent such amendments  
20          are inconsistent with the terms of the waiver.

21 **SEC. 5702. PRIMARY CARE CASE MANAGEMENT SERVICES**  
22                   **AS STATE OPTION WITHOUT NEED FOR WAIV-**  
23                   **ER.**

24          (a) *OPTIONAL COVERAGE AS PART OF MEDICAL AS-*  
25          *SISTANCE.*—

1           (1) *IN GENERAL.*—Section 1905(a) (42 U.S.C.  
2 1396d(a)) is amended—

3           (A) by striking “and” at the end of para-  
4 graph (24);

5           (B) by redesignating paragraph (25) as  
6 paragraph (26); and

7           (C) by inserting after paragraph (24) the  
8 following new paragraph:

9           “(25) primary care case management services  
10 (as defined in subsection (t)); and”.

11          (2) *CONFORMING AMENDMENTS.*—

12           (A) Section 1902(a)(10)(C)(iv) (42 U.S.C.  
13 1396a(a)(10)(C)(iv)) is amended by striking  
14 “through (24)” and inserting “through (25)”.

15           (B) Section 1902(j) (42 U.S.C. 1396a(j)) is  
16 amended by striking “through (25)” and insert-  
17 ing “through (26)”.

18          (b) *PRIMARY CARE CASE MANAGEMENT SERVICES DE-*  
19 *FINED.*—Section 1905 (42 U.S.C. 1396d) is amended by  
20 adding at the end the following new subsection:

21           “(t)(1) The term ‘primary care case management serv-  
22 ices’ means case-management related services (including co-  
23 ordination and monitoring of health care services) provided  
24 by a primary care case manager under a primary care case  
25 management contract.

1       “(2)(A) *The term ‘primary care case manager’ means,*  
2 *with respect to a primary care case management contract,*  
3 *a provider described in subparagraph (B).*

4       “(B) *A provider described in this subparagraph is—*

5           “(i) *a physician, a physician group practice, or*  
6 *an entity employing or having other arrangements*  
7 *with physicians who provide case management serv-*  
8 *ices; or*

9           “(ii) *at State option—*

10               “(I) *a nurse practitioner (as described in*  
11 *section 1905(a)(21));*

12               “(II) *a certified nurse-midwife (as defined*  
13 *in section 1861(gg)(2)); or*

14               “(III) *a physician assistant (as defined in*  
15 *section 1861(aa)(5)).*

16       “(3) *The term ‘primary care case management con-*  
17 *tract’ means a contract with a State agency under which*  
18 *a primary care case manager undertakes to locate, coordi-*  
19 *nate, and monitor covered primary care, covered primary*  
20 *care (and such other covered services as may be specified*  
21 *under the contract) to all individuals enrolled with the pri-*  
22 *mary care case manager, and that provides for—*

23           “(A) *reasonable and adequate hours of operation,*  
24 *including 24-hour availability of information, refer-*

1       *ral, and treatment with respect to medical emer-*  
2       *gencies;*

3               “(B) *restriction of enrollment to individuals re-*  
4       *siding sufficiently near a service delivery site of the*  
5       *entity to be able to reach that site within a reasonable*  
6       *time using available and affordable modes of trans-*  
7       *portation;*

8               “(C) *employment of, or contracts or other ar-*  
9       *rangements with, sufficient numbers of physicians*  
10       *and other appropriate health care professionals to en-*  
11       *sure that services under the contract can be furnished*  
12       *to enrollees promptly and without compromise to*  
13       *quality of care;*

14               “(D) *a prohibition on discrimination on the*  
15       *basis of health status or requirements for health serv-*  
16       *ices in the enrollment or disenrollment of individuals*  
17       *eligible for medical assistance under this title; and*

18               “(E) *a right for an enrollee to terminate enroll-*  
19       *ment without cause during the first month of each en-*  
20       *rollment period, which period shall not exceed 6*  
21       *months in duration, and to terminate enrollment at*  
22       *any time for cause.*

23               “(4) *For purposes of this subsection, the term ‘primary*  
24       *care’ includes all health care services customarily provided*  
25       *in accordance with State licensure and certification laws*

1 *and regulations, and all laboratory services customarily*  
2 *provided by or through, a general practitioner, family med-*  
3 *icine physician, internal medicine physician, obstetrician/*  
4 *gynecologist, or pediatrician.”.*

5 (c) *CONFORMING AMENDMENT.*—Section 1915(b)(1)  
6 (42 U.S.C. 1396n(b)(1)) *is repealed.*

7 (d) *EFFECTIVE DATE.*—*The amendments made by this*  
8 *section apply to primary care case management services*  
9 *furnished on or after October 1, 1997.*

10 **SEC. 5703. ADDITIONAL REFORMS TO EXPAND AND SIM-**  
11 **PLIFY MANAGED CARE.**

12 (a) *ELIMINATION OF 75:25 RESTRICTION ON RISK*  
13 *CONTRACTS.*—

14 (1) *75 PERCENT LIMIT ON MEDICARE AND MED-*  
15 *ICAID ENROLLMENT.*—

16 (A) *IN GENERAL.*—Section 1903(m)(2)(A)  
17 (42 U.S.C. 1396b(m)(2)(A)) *is amended by strik-*  
18 *ing clause (ii).*

19 (B) *CONFORMING AMENDMENTS.*—

20 (i) Section 1903(m)(2) (42 U.S.C.  
21 1396b(m)(2)) *is amended—*

22 (I) *by striking subparagraphs (C),*  
23 *(D), and (E); and*

1 (II) in subparagraph (G), by  
 2 striking “clauses (i) and (ii)” and in-  
 3 serting “clause (i)”.

4 (ii) Section 1902(e)(2)(A) (42 U.S.C.  
 5 1396a(e)(2)(A)) is amended by striking  
 6 “(2)(E),”.

7 (2) *EFFECTIVE DATE.*—The amendments made  
 8 by paragraph (1) shall apply on and after June 20,  
 9 1997.

10 (b) *ELIMINATION OF PROHIBITION ON COPAYMENTS*  
 11 *FOR SERVICES FURNISHED BY HEALTH MAINTENANCE OR-*  
 12 *GANIZATIONS.*—Section 1916 (42 U.S.C. 1396o) is amend-  
 13 ed—

14 (1) in subsection (a)(2)(D), by striking “or serv-  
 15 ices furnished” and all that follows through “en-  
 16 rolled,”; and

17 (2) in subsection (b)(2)(D), by striking “or (at  
 18 the option” and all that follows through “enrolled,”.

19 ***Subchapter B—Management Flexibility***  
 20 ***Reforms***

21 ***SEC. 5711. ELIMINATION OF BOREN AMENDMENT REQUIRE-***  
 22 ***MENTS FOR PROVIDER PAYMENT RATES.***

23 (a) *PLAN AMENDMENTS.*—Section 1902(a)(13) is  
 24 amended—

1           (1) *by striking all that precedes subparagraph*  
2 *(D) and inserting the following:*

3           “(13) *provide—*

4                   “(A) *for a public process for determination*  
5 *of rates of payment under the plan for hospital*  
6 *services (and which, in the case of hospitals, take*  
7 *into account the situation of hospitals which*  
8 *serve a disproportionate number of low income*  
9 *patients with special needs), nursing facility*  
10 *services, services provided in intermediate care*  
11 *facilities for the mentally retarded, and home*  
12 *and community-based services, under which—*

13                   “(i) *proposed rates, the methodologies underlying*  
14 *the establishment of such rates, and a description of*  
15 *how such methodologies will affect access to services,*  
16 *quality of services, and safety of beneficiaries are pub-*  
17 *lished, and providers, beneficiaries and their rep-*  
18 *resentatives, and other concerned State residents are*  
19 *given a reasonable opportunity for review and com-*  
20 *ment on such proposed rates, methodologies, and de-*  
21 *scription; and*

22                   “(ii) *final rates, the methodologies underlying*  
23 *the establishment of such rates, and justifications for*  
24 *such rates (that may take into account public com-*  
25 *ments received by the State (if any) are published in*

1     *1 or more daily newspapers of general circulation in*  
2     *the State or in any publication used by the State to*  
3     *publish State statutes or rules); and”;*

4             *(2) by redesignating subparagraphs (D) and (E)*  
5     *as subparagraphs (B) and (C), respectively;*

6             *(3) in subparagraph (B), as so redesignated, by*  
7     *adding “and” at the end; and*

8             *(4) by striking subparagraph (F).*

9     ***(b) STUDY AND REPORT.—***

10            ***(1) STUDY.—****The Secretary of Health and*  
11     *Human Services shall study the effect on access to*  
12     *services, the quality of services, and the safety of serv-*  
13     *ices provided to beneficiaries of the rate-setting meth-*  
14     *ods used by States pursuant to section 1902(a)(13) of*  
15     *the Social Security Act (42 U.S.C. 1396a(a)(13), as*  
16     *amended by subsection (a).*

17            ***(2) REPORT.—****Not later than 4 years after the*  
18     *date of enactment of this Act, the Secretary of Health*  
19     *and Human Services shall submit a report to the ap-*  
20     *propriate committees of Congress on the conclusions of*  
21     *the study conducted under paragraph (1), together*  
22     *with any recommendations for legislation as a result*  
23     *of such conclusions.*

24     ***(c) CONFORMING AMENDMENTS.—***

1           (1) Section 1903(m)(2)(A)(ix) (42 U.S.C.  
2   1396b(m)(2)(A)(ix)) is amended by striking  
3   “1902(a)(13)(E)” each place it appears and inserting  
4   “1902(a)(13)(C)”.

5           (2) Section 1905(o)(3) (42 U.S.C. 1396d(o)(3)) is  
6   amended by striking “amount described in section  
7   1902(a)(13)(D)” and inserting “amount determined  
8   in section 1902(a)(13)(B)”.

9           (3) Section 1913(b)(3) (42 U.S.C. 1396l(b)(3)) is  
10  amended by striking “1902(a)(13)(A)” and inserting  
11  “1902(a)(13)”.

12           (4) Section 1923 (42 U.S.C. 1396r-4) is amend-  
13  ed in subsections (a)(1) and (e)(1), by striking  
14  “1902(a)(13)(A)” each place it appears and inserting  
15  “1902(a)(13)”.

16 **SEC. 5712. MEDICAID PAYMENT RATES FOR QUALIFIED**  
17 **MEDICARE BENEFICIARIES.**

18           (a) *IN GENERAL.*—Section 1902(n) (42 U.S.C.  
19  1396a(n)) is amended—

20           (1) by inserting “(1)” after “(n)”, and

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

22           “(2) In carrying out paragraph (1), a State is not re-  
23  quired to provide any payment for any expenses incurred  
24  relating to payment for a coinsurance or copayment for  
25  medicare cost-sharing if the amount of the payment under

1 *title XVIII for the service exceeds the payment amount that*  
2 *otherwise would be made under the State plan under this*  
3 *title for such service.*

4       “(3) *In the case in which a State’s payment for medi-*  
5 *care cost-sharing for a qualified medicare beneficiary with*  
6 *respect to an item or service is reduced or eliminated*  
7 *through the application of paragraph (1) or (2) of this sub-*  
8 *section—*

9               “(A) *for purposes of applying any limitation*  
10 *under title XVIII on the amount that the beneficiary*  
11 *may be billed or charged for the service, the amount*  
12 *of payment made under title XVIII plus the amount*  
13 *of payment (if any) under the State plan shall be*  
14 *considered to be payment in full for the service,*

15               “(B) *the beneficiary shall not have any legal li-*  
16 *ability to make payment to a provider or managed*  
17 *care entity (as defined in section 1950(a)(1)) for the*  
18 *service, and*

19               “(C) *any lawful sanction that may be imposed*  
20 *upon a provider or managed care entity (as defined*  
21 *in section 1950(a)(1)) for excess charges under this*  
22 *title or title XVIII shall apply to the imposition of*  
23 *any charge on the individual in such case.*

24 *This paragraph shall not be construed as preventing pay-*  
25 *ment of any medicare cost-sharing by a medicare supple-*

1 *mental policy or an employer retiree health plan on behalf*  
2 *of an individual.”.*

3 (b) *LIMITATION IN MEDICARE PROVIDER AGREE-*  
4 *MENTS.—Section 1866(a)(1)(A) (42 U.S.C.*  
5 *1395cc(a)(1)(A)) is amended—*

6 (1) *by inserting “(i)” after “(A)”, and*

7 (2) *by inserting before the comma at the end the*  
8 *following: “, and (ii) not to impose any charge that*  
9 *may not be charged under section 1902(n)(3)”.*

10 (c) *LIMITATION ON NONPARTICIPATING PROVIDERS.—*  
11 *Section 1848(g)(3)(A) (42 U.S.C. 1395w-4(g)(3)(A)) is*  
12 *amended by inserting before the period at the end the follow-*  
13 *ing: “and the provisions of section 1902(n)(3)(A) apply to*  
14 *further limit permissible charges under this section”.*

15 (d) *EFFECTIVE DATE.—The amendments made by this*  
16 *section shall apply to payment for items and services fur-*  
17 *nished on or after the later of—*

18 (1) *October 1, 1997; or*

19 (2) *the termination date of a provider agreement*  
20 *under the medicare program under title XVIII or*  
21 *under a State plan under title XIX that is in effect*  
22 *on the date of the enactment of this Act.*

1 ***Subchapter C—Reduction of Disproportionate***  
2 ***Share Hospital (DSH) Payments***

3 ***SEC. 5721. DISPROPORTIONATE SHARE HOSPITAL (DSH)***  
4 ***PAYMENTS.***

5 *(a) REDUCTION OF PAYMENTS.—Section 1923(f) (42*  
6 *U.S.C. 1396r–4(f)) is amended to read as follows:*

7 *“(f) LIMITATION ON FEDERAL FINANCIAL PARTICIPA-*  
8 *TION.—*

9 *“(1) IN GENERAL.—Beginning with fiscal year*  
10 *1998, payment under section 1903(a) shall not be*  
11 *made to a State with respect to any payment adjust-*  
12 *ment made under this section for hospitals in a State*  
13 *for quarters in a fiscal year in excess of the dis-*  
14 *proportionate share hospital (in this subsection re-*  
15 *ferred to as ‘DSH’) allotment for the State for the fis-*  
16 *cal year, as specified in paragraphs (2), (3), (4), and*  
17 *(5).*

18 *“(2) DETERMINATION OF STATE DSH ALLOT-*  
19 *MENTS FOR FISCAL YEAR 1998.—*

20 *“(A) IN GENERAL.—Except as provided in*  
21 *subparagraph (B) and paragraph (4), the DSH*  
22 *allotment for a State for fiscal year 1998 is*  
23 *equal to the State 1995 DSH spending amount.*

24 *“(B) HIGH DSH STATES.—In the case of*  
25 *any State that is a high DSH State, the DSH*

1           *allotment for that State for fiscal year 1998 is*  
2           *equal to the sum of—*

3                   “(i) *the Federal share of payment ad-*  
4                   *justments made to hospitals in the State*  
5                   *under subsection (c) that are attributable to*  
6                   *the 1995 DSH allotment for inpatient hos-*  
7                   *pital services provided (based on reporting*  
8                   *data specified by the State on HCFA Form*  
9                   *64 as inpatient DSH, and as approved by*  
10                   *the Secretary); and*

11                   “(ii) *70 percent of the Federal share of*  
12                   *payment adjustments made to hospitals in*  
13                   *the State under subsection (c) that are at-*  
14                   *tributable to the 1995 DSH allotment for*  
15                   *payments to institutions for mental diseases*  
16                   *and other mental health facilities (based on*  
17                   *reporting data specified by the State on*  
18                   *HCFA Form 64 as mental health DSH,*  
19                   *and as approved by the Secretary).*

20                   “(3) *DETERMINATION OF STATE DSH ALLOT-*  
21                   *MENTS FOR FISCAL YEARS 1999 THROUGH 2002.—*

22                   “(A) *NON HIGH DSH STATES.—*

23                   “(i) *IN GENERAL.—Except as provided*  
24                   *in subparagraph (B) and paragraph (4),*  
25                   *the DSH allotment for a State for each of*

1           *fiscal years 1999 through 2002 is equal to*  
2           *the applicable percentage of the State 1995*  
3           *DSH spending amount.*

4           “(i) *APPLICABLE PERCENTAGE.—For*  
5           *purposes of clause (i), the applicable per-*  
6           *centage with respect to a State described in*  
7           *that clause is—*

8                     “(I) *for fiscal year 1999, 98 per-*  
9                     *cent;*

10                    “(II) *for fiscal year 2000, 95 per-*  
11                    *cent;*

12                    “(III) *for fiscal year 2001, 90*  
13                    *percent; and*

14                    “(IV) *for fiscal year 2002, 85 per-*  
15                    *cent.*

16           “(B) *HIGH DSH STATES.—*

17                    “(i) *IN GENERAL.—In the case of any*  
18                    *State that is a high DSH State, the DSH*  
19                    *allotment for that State for each of fiscal*  
20                    *years 1999 through 2002 is equal to the ap-*  
21                    *plicable reduction percentage of the high*  
22                    *DSH State modified 1995 spending amount*  
23                    *for that fiscal year.*

24                    “(ii) *HIGH DSH STATE MODIFIED 1995*  
25                    *SPENDING AMOUNT.—*

1           “(I) *IN GENERAL.*—*For purposes*  
2 *of clause (i), the high DSH State*  
3 *modified 1995 spending amount*  
4 *means, with respect to a State and a*  
5 *fiscal year, the sum of—*

6                   “(aa) *the Federal share of*  
7 *payment adjustments made to*  
8 *hospitals in the State under sub-*  
9 *section (c) that are attributable to*  
10 *the 1995 DSH allotment for inpa-*  
11 *tient hospital services provided*  
12 *(based on reporting data specified*  
13 *by the State on HCFA Form 64*  
14 *as inpatient DSH, and as ap-*  
15 *proved by the Secretary); and*

16                   “(bb) *the applicable mental*  
17 *health percentage for such fiscal*  
18 *year of the Federal share of pay-*  
19 *ment adjustments made to hos-*  
20 *pitals in the State under sub-*  
21 *section (c) that are attributable to*  
22 *the 1995 DSH allotment for pay-*  
23 *ments to institutions for mental*  
24 *diseases and other mental health*  
25 *facilities (based on reporting data*

1 specified by the State on HCFA  
2 Form 64 as mental health DSH,  
3 and as approved by the Sec-  
4 retary).

5 “(II) APPLICABLE MENTAL  
6 HEALTH PERCENTAGE.—For purposes  
7 of subclause (I)(bb), the applicable  
8 mental health percentage for such fiscal  
9 year is—

10 “(aa) for fiscal year 1999, 50  
11 percent;

12 “(bb) for fiscal year 2000, 20  
13 percent; and

14 “(cc) for fiscal years 2001  
15 and 2002, 0 percent.

16 “(iii) APPLICABLE REDUCTION PER-  
17 CENTAGE.—For purposes of clause (i), the  
18 applicable reduction percentage described in  
19 that clause is—

20 “(I) for fiscal year 1999, 92 per-  
21 cent;

22 “(II) for fiscal year 2000, 85 per-  
23 cent; and

24 “(III) for fiscal years 2001 and  
25 2002, 80 percent.

1           “(4) *EXCEPTIONS.*—

2                   “(A) *CERTAIN STATES WITHOUT 1995 MEN-*  
3                   *TAL HEALTH DSH SPENDING.*—*In the case of any*  
4                   *State with a State 1995 DSH spending amount*  
5                   *that exceeds 12 percent of the Federal medical*  
6                   *assistance percentage of expenditures made under*  
7                   *the State plan under this title for medical assist-*  
8                   *ance during fiscal year 1995 and that, during*  
9                   *such fiscal year, did not make any payment ad-*  
10                   *justments to hospitals in the State under sub-*  
11                   *section (c) that are attributable to the 1995 DSH*  
12                   *allotment for payments to institutions for mental*  
13                   *diseases and other mental health facilities (based*  
14                   *on reporting data specified by the State on*  
15                   *HCFR Form 64 as mental health DSH, and as*  
16                   *approved by the Secretary), the DSH allotment*  
17                   *for that State for each of fiscal years 1998*  
18                   *through 2002 is equal to the average of the State*  
19                   *1995 DSH spending amount and the State 1996*  
20                   *DSH spending amount.*

21                   “(B) *STATES WITH LOW STATE 1995 DSH*  
22                   *SPENDING AMOUNTS.*—*In the case of any State*  
23                   *with a State 1995 DSH spending amount that*  
24                   *is less than 3 percent of the Federal medical as-*  
25                   *sistance percentage of expenditures made under*

1           *the State plan under this title for medical assist-*  
2           *ance during fiscal year 1995, the DSH allotment*  
3           *for that State for each of fiscal years 1998*  
4           *through 2002 is equal to the State 1995 DSH*  
5           *spending amount.*

6           “(C) STATES WITH STATE 1995 DSH SPEND-  
7           ING AMOUNTS ABOVE 3 PERCENT.—*In the case of*  
8           *any State with a State 1995 DSH spending*  
9           *amount that is more than 3 percent of the Fed-*  
10           *eral medical assistance percentage of expendi-*  
11           *tures made under the State plan under this title*  
12           *for medical assistance during fiscal year 1995,*  
13           *the DSH allotment for that State for each of fis-*  
14           *cal years 1999 through 2002 is equal to the*  
15           *greater of—*

16                   “(i) *the amount otherwise determined*  
17                   *for such State under paragraph (3); or*

18                   “(ii) *50 percent of the State 1995 DSH*  
19                   *spending amount.*

20           “(5) DETERMINATION OF STATE DSH ALLOT-  
21           MENTS FOR FISCAL YEAR 2003 AND THEREAFTER.—  
22           *The DSH allotment for any State for fiscal year 2003*  
23           *and each fiscal year thereafter is equal to the DSH*  
24           *allotment for the State for the preceding fiscal year,*  
25           *increased by the estimated percentage change in the*

1        *consumer price index for medical services (as deter-*  
2        *mined by the Bureau of Labor Statistics).*

3            “(6) *DEFINITIONS.—*

4            “(A) *HIGH DSH STATE.—The term ‘high*  
5        *DSH State’ means a State that, with respect to*  
6        *fiscal year 1997, had a State base allotment*  
7        *under this section that exceeded 12 percent of the*  
8        *Federal medical assistance percentage of expend-*  
9        *itures made under the State plan under this title*  
10       *for medical assistance during such fiscal year, as*  
11       *determined using the preliminary State DSH al-*  
12       *lotment for the State for fiscal year 1997, as*  
13       *published in the Federal Register on January*  
14       *31, 1997.*

15           “(B) *STATE.—In this subsection, the term*  
16        *‘State’ means the 50 States and the District of*  
17        *Columbia.”.*

18           “(C) *STATE 1995 DSH SPENDING AMOUNT.—*  
19        *The term ‘State 1995 DSH spending amount’*  
20        *means, with respect to a State, the Federal medi-*  
21        *cal assistance percentage of payment adjustments*  
22        *made under subsection (c) under the State plan*  
23        *that are attributable to the fiscal year 1995*  
24        *DSH allotment, as reported by the State not*

1           *later than January 1, 1997, on HCFA Form 64,*  
2           *and as approved by the Secretary.*

3           “(D) *STATE 1996 DSH SPENDING AMOUNT.*—  
4           *The term ‘State 1996 DSH spending amount’*  
5           *means, with respect to a State, the Federal share*  
6           *of payment adjustments made under subsection*  
7           *(c) under the State plan during fiscal year 1996*  
8           *as reported by the State not later than December*  
9           *31, 1997, on HCFA Form 64, and as approved*  
10          *by the Secretary.”*

11          ***(b) LIMITATION ON PAYMENTS TO INSTITUTIONS FOR***  
12          ***MENTAL DISEASES.***—*Section 1923 of the Social Security*  
13          *Act (42 U.S.C. 1396r-4) is amended by adding at the end*  
14          *the following:*

15          “(h) *LIMITATION ON CERTAIN STATE DSH EXPENDI-*  
16          *TURES.*—

17                 “(1) *IN GENERAL.*—*Notwithstanding any other*  
18                 *provision of this section, payment under section*  
19                 *1903(a) shall not be made to a State with respect to*  
20                 *any payment adjustments made under this section for*  
21                 *quarters in a fiscal year to institutions for mental*  
22                 *diseases or other mental health facilities, in excess*  
23                 *of—*

24                         “(A) *the total State DSH expenditures that*  
25                         *are attributable to fiscal year 1995 for payments*

1           to institutions for mental diseases and other  
2           mental health facilities (based on reporting data  
3           specified by the State on HCFA Form 64 as  
4           mental health DSH, and as approved by the Sec-  
5           retary); or

6           “(B) the amount of such payment adjust-  
7           ment which is equal to the applicable percentage  
8           of the Federal share of payment adjustments  
9           made to hospitals in the State under subsection  
10          (c) that are attributable to the 1995 DSH allot-  
11          ment for payments to institutions for mental dis-  
12          eases and other mental health facilities (based on  
13          reporting data specified by the State on HCFA  
14          Form 64 as mental health DSH, and as ap-  
15          proved by the Secretary).

16          “(2) APPLICABLE PERCENTAGE.—

17                 “(A) IN GENERAL.—For purposes of para-  
18                 graph (1), the applicable percentage with respect  
19                 to a fiscal year is the lesser of the percentage de-  
20                 termined under subparagraph (B) or—

21                         “(i) for fiscal year 2001, 50 percent;

22                         “(ii) for fiscal year 2002, 40 percent;

23                         and

24                         “(iii) for fiscal year 2003 and there-  
25                         after, 33 percent.

1           “(B) 1995 PERCENTAGE.—The percentage  
2           determined under this subparagraph is the ratio  
3           (determined as a percentage) of the Federal share  
4           of payment adjustments made to hospitals in the  
5           State under subsection (c) that are attributable  
6           to the 1995 DSH allotment for payments to in-  
7           stitutions for mental diseases and other mental  
8           health facilities, to the State 1995 DSH spending  
9           amount, as defined under subsection (f)(6)(C).”.

10          (c) TARGETING PAYMENTS.—Section 1923(a)(2) (42  
11          U.S.C. 1396r-4(a)(2)) is amended by adding at the end the  
12          following:

13               “(D) A State plan under this title shall not be  
14               considered to meet the requirements of section  
15               1902(a)(13)(A) (insofar as it requires payments to  
16               hospitals to take into account the situation of hos-  
17               pitals that serve a disproportionate number of low-in-  
18               come patients with special needs), as of October 1,  
19               1998, unless the State has provided assurances to the  
20               Secretary that the State has developed a methodology  
21               for prioritizing payments to disproportionate share  
22               hospitals, including children’s hospitals, on the basis  
23               of the proportion of low-income and medicaid pa-  
24               tients served by such hospitals. In making such assur-  
25               ances, the State plan shall provide a definition of

1 *high-volume disproportionate share hospitals and a*  
 2 *detailed description of the specific methodology to be*  
 3 *used to provide disproportionate share payments to*  
 4 *such hospitals. The State shall provide an annual re-*  
 5 *port to the Secretary describing the disproportionate*  
 6 *share payments to such high-volume disproportionate*  
 7 *share hospitals.”.*

8 *(d) EFFECTIVE DATE.—The amendments made by this*  
 9 *section apply on and after October 1, 1997.*

10 **CHAPTER 2—EXPANSION OF MEDICAID**

11 **ELIGIBILITY**

12 **SEC. 5731. STATE OPTION TO PERMIT WORKERS WITH DIS-**  
 13 **ABILITIES TO BUY INTO MEDICAID.**

14 *Section 1902(a)(10)(A)(ii) (42 U.S.C.*  
 15 *1396a(a)(10)(A)(ii)) is amended—*

16 *(1) in subclause (XI), by striking “or” at the*  
 17 *end;*

18 *(2) in subclause (XII), by adding “or” at the*  
 19 *end; and*

20 *(3) by adding at the end the following:*

21 *“(XIII) who are in families whose*  
 22 *income is less than 250 percent of the*  
 23 *income official poverty line (as defined*  
 24 *by the Office of Management and*  
 25 *Budget, and revised annually in ac-*

1                   *cordance with section 673(2) of the*  
2                   *Omnibus Budget Reconciliation Act of*  
3                   *1981) applicable to a family of the size*  
4                   *involved, and who but for earnings in*  
5                   *excess of the limit established under*  
6                   *section 1619(b), would be considered to*  
7                   *be receiving supplemental security in-*  
8                   *come (subject, notwithstanding section*  
9                   *1916, to payment of premiums or other*  
10                  *charges (set on a sliding scale based on*  
11                  *income) that the State may deter-*  
12                  *mine);”.*

13 **SEC. 5732. 12-MONTH CONTINUOUS ELIGIBILITY FOR CHIL-**  
14                   **DREN.**

15           (a) *IN GENERAL.*—Section 1902(e) (42 U.S.C.  
16 *1396a(e)) is amended by adding at the end the following:*

17           “(12) *At the option of the State, the State plan may*  
18 *provide that an individual who is under an age specified*  
19 *by the State (not to exceed 19 years of age) and who is*  
20 *determined to be eligible for benefits under a State plan*  
21 *approved under this title under subsection (a)(10)(A) shall*  
22 *remain eligible for those benefits until the earlier of—*

23                   “(A) *the end of the 12-month period following*  
24                   *the determination; or*

1           “(B) the date that the individual exceeds that  
2           age.”.

3           (b) *EFFECTIVE DATE.*—The amendment made by sub-  
4           section (a) shall apply to medical assistance for items and  
5           services furnished on or after October 1, 1997.

6           **CHAPTER 3—PROGRAMS OF ALL-INCLU-**  
7           **SIVE CARE FOR THE ELDERLY (PACE)**

8           **SEC. 5741. ESTABLISHMENT OF PACE PROGRAM AS MEDIC-**  
9           **AID STATE OPTION.**

10          (a) *IN GENERAL.*—Title XIX is amended—

11                 (1) in section 1905(a) (42 U.S.C. 1396d(a)), as  
12                 amended by section 5702(a)(1)—

13                         (A) by striking “and” at the end of para-  
14                         graph (25);

15                         (B) by redesignating paragraph (26) as  
16                         paragraph (27); and

17                         (C) by inserting after paragraph (25) the  
18                         following new paragraph:

19                                 “(26) services furnished under a PACE program  
20                                 under section 1932 to PACE program eligible indi-  
21                                 viduals enrolled under the program under such sec-  
22                                 tion; and”;

23                         (2) by redesignating section 1932 as section  
24                         1933; and



1           “(A) *OPERATION.*—*The entity operating the*  
2           *program is a PACE provider (as defined in*  
3           *paragraph (3)).*

4           “(B) *COMPREHENSIVE BENEFITS.*—*The*  
5           *program provides comprehensive health care*  
6           *services to PACE program eligible individuals in*  
7           *accordance with the PACE program agreement*  
8           *and regulations under this section.*

9           “(C) *TRANSITION.*—*In the case of an indi-*  
10           *vidual who is enrolled under the program under*  
11           *this section and whose enrollment ceases for any*  
12           *reason (including that the individual no longer*  
13           *qualifies as a PACE program eligible individual,*  
14           *the termination of a PACE program agreement,*  
15           *or otherwise), the program provides assistance to*  
16           *the individual in obtaining necessary transi-*  
17           *tional care through appropriate referrals and*  
18           *making the individual’s medical records avail-*  
19           *able to new providers.*

20           “(3) *PACE PROVIDER DEFINED.*—

21           “(A) *IN GENERAL.*—*For purposes of this*  
22           *section, the term ‘PACE provider’ means an en-*  
23           *tity that—*

24                   “(i) *subject to subparagraph (B), is (or*  
25                   *is a distinct part of) a public entity or a*

1           *private, nonprofit entity organized for char-*  
2           *itable purposes under section 501(c)(3) of*  
3           *the Internal Revenue Code of 1986, and*

4           *“(i) has entered into a PACE pro-*  
5           *gram agreement with respect to its oper-*  
6           *ation of a PACE program.*

7           *“(B) TREATMENT OF PRIVATE, FOR-PROFIT*  
8           *PROVIDERS.—Clause (i) of subparagraph (A)*  
9           *shall not apply—*

10           *“(i) to entities subject to a demonstra-*  
11           *tion project waiver under subsection (h);*  
12           *and*

13           *“(ii) after the date the report under*  
14           *section 5743(b) of the Balanced Budget Act*  
15           *of 1997 is submitted, unless the Secretary*  
16           *determines that any of the findings de-*  
17           *scribed in subparagraph (A), (B), (C), or*  
18           *(D) of paragraph (2) of such section are*  
19           *true.*

20           *“(4) PACE PROGRAM AGREEMENT DEFINED.—*  
21           *For purposes of this section, the term ‘PACE program*  
22           *agreement’ means, with respect to a PACE provider,*  
23           *an agreement, consistent with this section, section*  
24           *1894 (if applicable), and regulations promulgated to*  
25           *carry out such sections, among the PACE provider,*

1        *the Secretary, and a State administering agency for*  
2        *the operation of a PACE program by the provider*  
3        *under such sections.*

4                *“(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DE-*  
5        *FINED.—For purposes of this section, the term ‘PACE*  
6        *program eligible individual’ means, with respect to a*  
7        *PACE program, an individual who—*

8                        *“(A) is 55 years of age or older;*

9                        *“(B) subject to subsection (c)(4), is deter-*  
10        *mined under subsection (c) to require the level of*  
11        *care required under the State medicaid plan for*  
12        *coverage of nursing facility services;*

13                        *“(C) resides in the service area of the PACE*  
14        *program; and*

15                        *“(D) meets such other eligibility conditions*  
16        *as may be imposed under the PACE program*  
17        *agreement for the program under subsection*  
18        *(e)(2)(A)(ii).*

19                *“(6) PACE PROTOCOL.—For purposes of this*  
20        *section, the term ‘PACE protocol’ means the Protocol*  
21        *for the Program of All-inclusive Care for the Elderly*  
22        *(PACE), as published by On Lok, Inc., as of April 14,*  
23        *1995, or any successor protocol that may be agreed*  
24        *upon between the Secretary and On Lok, Inc.*

1           “(7) *PACE DEMONSTRATION WAIVER PROGRAM*  
2           *DEFINED.*—*For purposes of this section, the term*  
3           *‘PACE demonstration waiver program’ means a dem-*  
4           *onstration program under either of the following sec-*  
5           *tions (as in effect before the date of their repeal):*

6                     “(A) *Section 603(c) of the Social Security*  
7                     *Amendments of 1983 (Public Law 98–21), as ex-*  
8                     *tended by section 9220 of the Consolidated Om-*  
9                     *nibus Budget Reconciliation Act of 1985 (Public*  
10                    *Law 99–272).*

11                   “(B) *Section 9412(b) of the Omnibus Budg-*  
12                   *et Reconciliation Act of 1986 (Public Law 99–*  
13                   *509).*

14           “(8) *STATE ADMINISTERING AGENCY DEFINED.*—  
15           *For purposes of this section, the term ‘State admin-*  
16           *istering agency’ means, with respect to the operation*  
17           *of a PACE program in a State, the agency of that*  
18           *State (which may be the single agency responsible for*  
19           *administration of the State plan under this title in*  
20           *the State) responsible for administering PACE pro-*  
21           *gram agreements under this section and section 1894*  
22           *in the State.*

23           “(9) *TRIAL PERIOD DEFINED.*—

24                   “(A) *IN GENERAL.*—*For purposes of this*  
25                   *section, the term ‘trial period’ means, with re-*

1           *spect to a PACE program operated by a PACE*  
2           *provider under a PACE program agreement, the*  
3           *first 3 contract years under such agreement with*  
4           *respect to such program.*

5           “(B) *TREATMENT OF ENTITIES PREVIOUSLY*  
6           *OPERATING PACE DEMONSTRATION WAIVER PRO-*  
7           *GRAMS.—Each contract year (including a year*  
8           *occurring before the effective date of this section)*  
9           *during which an entity has operated a PACE*  
10           *demonstration waiver program shall be counted*  
11           *under subparagraph (A) as a contract year dur-*  
12           *ing which the entity operated a PACE program*  
13           *as a PACE provider under a PACE program*  
14           *agreement.*

15           “(10) *REGULATIONS.—For purposes of this sec-*  
16           *tion, the term ‘regulations’ refers to interim final or*  
17           *final regulations promulgated under subsection (f) to*  
18           *carry out this section and section 1894.*

19           “(b) *SCOPE OF BENEFITS; BENEFICIARY SAFE-*  
20           *GUARDS.—*

21           “(1) *IN GENERAL.—Under a PACE program*  
22           *agreement, a PACE provider shall—*

23                   “(A) *provide to PACE program eligible in-*  
24                   *dividuals, regardless of source of payment and*

1           *directly or under contracts with other entities, at*  
2           *a minimum—*

3                     “(i) *all items and services covered*  
4                     *under title XVIII (for individuals enrolled*  
5                     *under section 1894) and all items and serv-*  
6                     *ices covered under this title, but without*  
7                     *any limitation or condition as to amount,*  
8                     *duration, or scope and without application*  
9                     *of deductibles, copayments, coinsurance, or*  
10                    *other cost-sharing that would otherwise*  
11                    *apply under such title or this title, respec-*  
12                    *tively; and*

13                    “(ii) *all additional items and services*  
14                    *specified in regulations, based upon those*  
15                    *required under the PACE protocol;*

16                    “(B) *provide such enrollees access to nec-*  
17                    *essary covered items and services 24 hours per*  
18                    *day, every day of the year;*

19                    “(C) *provide services to such enrollees*  
20                    *through a comprehensive, multidisciplinary*  
21                    *health and social services delivery system which*  
22                    *integrates acute and long-term care services pur-*  
23                    *suant to regulations; and*

24                    “(D) *specify the covered items and services*  
25                    *that will not be provided directly by the entity,*

1           *and to arrange for delivery of those items and*  
2           *services through contracts meeting the require-*  
3           *ments of regulations.*

4           “(2) *QUALITY ASSURANCE; PATIENT SAFE-*  
5           *GUARDS.—The PACE program agreement shall re-*  
6           *quire the PACE provider to have in effect at a mini-*  
7           *imum—*

8                   “(A) *a written plan of quality assurance*  
9                   *and improvement, and procedures implementing*  
10                   *such plan, in accordance with regulations, and*

11                   “(B) *written safeguards of the rights of en-*  
12                   *rolled participants (including a patient bill of*  
13                   *rights and procedures for grievances and ap-*  
14                   *peals) in accordance with regulations and with*  
15                   *other requirements of this title and Federal and*  
16                   *State law designed for the protection of patients.*

17           “(c) *ELIGIBILITY DETERMINATIONS.—*

18                   “(1) *IN GENERAL.—The determination of—*

19                           “(A) *whether an individual is a PACE pro-*  
20                           *gram eligible individual shall be made under*  
21                           *and in accordance with the PACE program*  
22                           *agreement, and*

23                           “(B) *who is entitled to medical assistance*  
24                           *under this title shall be made (or who is not so*

1           entitled, may be made) by the State administer-  
2           ing agency.

3           “(2) *CONDITION.*—An individual is not a PACE  
4           program eligible individual (with respect to payment  
5           under this section) unless the individual’s health sta-  
6           tus has been determined by the Secretary or the State  
7           administering agency, in accordance with regulations,  
8           to be comparable to the health status of individuals  
9           who have participated in the PACE demonstration  
10          waiver programs. Such determination shall be based  
11          upon information on health status and related indica-  
12          tors (such as medical diagnoses and measures of ac-  
13          tivities of daily living, instrumental activities of  
14          daily living, and cognitive impairment) that are part  
15          of a uniform minimum data set collected by PACE  
16          providers on potential eligible individuals.

17          “(3) *ANNUAL ELIGIBILITY RECERTIFICATIONS.*—

18                 “(A) *IN GENERAL.*—Subject to subpara-  
19                 graph (B), the determination described in sub-  
20                 section (a)(5)(B) for an individual shall be re-  
21                 evaluated at least annually.

22                 “(B) *EXCEPTION.*—The requirement of an-  
23                 nual reevaluation under subparagraph (A) may  
24                 be waived during a period in accordance with  
25                 regulations in those cases in which the State ad-

1           *ministering agency determines that there is no*  
2           *reasonable expectation of improvement or signifi-*  
3           *cant change in an individual's condition during*  
4           *the period because of the advanced age, severity*  
5           *of the advanced age, severity of chronic condi-*  
6           *tion, or degree of impairment of functional ca-*  
7           *capacity of the individual involved.*

8           “(4) *CONTINUATION OF ELIGIBILITY.*—*An indi-*  
9           *vidual who is a PACE program eligible individual*  
10          *may be deemed to continue to be such an individual*  
11          *notwithstanding a determination that the individual*  
12          *no longer meets the requirement of subsection*  
13          *(a)(5)(B) if, in accordance with regulations, in the*  
14          *absence of continued coverage under a PACE program*  
15          *the individual reasonably would be expected to meet*  
16          *such requirement within the succeeding 6-month pe-*  
17          *riod.*

18          “(5) *ENROLLMENT; DISENROLLMENT.*—*The en-*  
19          *rollment and disenrollment of PACE program eligible*  
20          *individuals in a PACE program shall be pursuant to*  
21          *regulations and the PACE program agreement and*  
22          *shall permit enrollees to voluntarily disenroll without*  
23          *cause at any time. Such regulations and agreement*  
24          *shall provide that the PACE program may not*  
25          *disenroll a PACE program eligible individual on the*

1       *ground that the individual has engaged in noncompli-*  
2       *ant behavior if such behavior is related to a mental*  
3       *or physical condition of the individual. For purposes*  
4       *of the preceding sentence, the term ‘noncompliant be-*  
5       *havior’ includes repeated noncompliance with medical*  
6       *advice and repeated failure to appear for appoint-*  
7       *ments.*

8       “(d) *PAYMENTS TO PACE PROVIDERS ON A*  
9       *CAPITATED BASIS.—*

10               “(1) *IN GENERAL.—In the case of a PACE pro-*  
11               *vider with a PACE program agreement under this*  
12               *section, except as provided in this subsection or by*  
13               *regulations, the State shall make prospective monthly*  
14               *payments of a capitation amount for each PACE pro-*  
15               *gram eligible individual enrolled under the agreement*  
16               *under this section.*

17               “(2) *CAPITATION AMOUNT.—The capitation*  
18               *amount to be applied under this subsection for a pro-*  
19               *vider for a contract year shall be an amount specified*  
20               *in the PACE program agreement for the year. Such*  
21               *amount shall be an amount, specified under the*  
22               *PACE agreement, which is less than the amount that*  
23               *would otherwise have been made under the State plan*  
24               *if the individuals were not so enrolled and shall be*  
25               *adjusted to take into account the comparative frailty*

1 of PACE enrollees and such other factors as the Sec-  
2 retary determines to be appropriate. The payment  
3 under this section shall be in addition to any pay-  
4 ment made under section 1894 for individuals who  
5 are enrolled in a PACE program under such section.

6 “(e) PACE PROGRAM AGREEMENT.—

7 “(1) REQUIREMENT.—

8 “(A) IN GENERAL.—The Secretary, in close  
9 cooperation with the State administering agency,  
10 shall establish procedures for entering into, ex-  
11 tending, and terminating PACE program agree-  
12 ments for the operation of PACE programs by  
13 entities that meet the requirements for a PACE  
14 provider under this section, section 1894, and  
15 regulations.

16 “(B) NUMERICAL LIMITATION.—

17 “(i) IN GENERAL.—The Secretary shall  
18 not permit the number of PACE providers  
19 with which agreements are in effect under  
20 this section or under section 9412(b) of the  
21 Omnibus Budget Reconciliation Act of 1986  
22 to exceed—

23 “(I) 40 as of the date of the enact-  
24 ment of this section, or

1                   “(II) as of each succeeding anni-  
2                   versary of such date, the numerical  
3                   limitation under this subparagraph for  
4                   the preceding year plus 20.

5                   Subclause (II) shall apply without regard to  
6                   the actual number of agreements in effect as  
7                   of a previous anniversary date.

8                   “(ii) TREATMENT OF CERTAIN PRI-  
9                   VATE, FOR-PROFIT PROVIDERS.—The nu-  
10                  merical limitation in clause (i) shall not  
11                  apply to a PACE provider that—

12                   “(I) is operating under a dem-  
13                   onstration project waiver under sub-  
14                   section (h), or

15                   “(II) was operating under such a  
16                   waiver and subsequently qualifies for  
17                   PACE provider status pursuant to sub-  
18                   section (a)(3)(B)(ii).

19                  “(2) SERVICE AREA AND ELIGIBILITY.—

20                   “(A) IN GENERAL.—A PACE program  
21                   agreement for a PACE program—

22                   “(i) shall designate the service area of  
23                   the program;

24                   “(ii) may provide additional require-  
25                   ments for individuals to qualify as PACE

1                    *program eligible individuals with respect to*  
2                    *the program;*

3                    *“(iii) shall be effective for a contract*  
4                    *year, but may be extended for additional*  
5                    *contract years in the absence of a notice by*  
6                    *a party to terminate, and is subject to ter-*  
7                    *mination by the Secretary and the State*  
8                    *administering agency at any time for cause*  
9                    *(as provided under the agreement);*

10                   *“(iv) shall require a PACE provider to*  
11                   *meet all applicable State and local laws*  
12                   *and requirements; and*

13                   *“(v) shall have such additional terms*  
14                   *and conditions as the parties may agree to,*  
15                   *provided that such terms and conditions are*  
16                   *consistent with this section and regulations.*

17                   *“(B) SERVICE AREA OVERLAP.—In des-*  
18                   *ignating a service area under a PACE program*  
19                   *agreement under subparagraph (A)(i), the Sec-*  
20                   *retary (in consultation with the State admin-*  
21                   *istering agency) may exclude from designation*  
22                   *an area that is already covered under another*  
23                   *PACE program agreement, in order to avoid un-*  
24                   *necessary duplication of services and avoid im-*

1           *pairing the financial and service viability of an*  
2           *existing program.*

3           “(3) *DATA COLLECTION; DEVELOPMENT OF OUT-*  
4           *COME MEASURES.—*

5                   “(A) *DATA COLLECTION.—*

6                           “(i) *IN GENERAL.—Under a PACE*  
7                           *program agreement, the PACE provider*  
8                           *shall—*

9                                   “(I) *collect data;*

10   “(II) *maintain, and afford the*  
11   *Secretary and the State administering*  
12   *agency access to, the records relating to*  
13   *the program, including pertinent fi-*  
14   *nancial, medical, and personnel*  
15   *records; and*

16   “(III) *submit to the Secretary and*  
17   *the State administering agency such*  
18   *reports as the Secretary finds (in con-*  
19   *sultation with State administering*  
20   *agencies) necessary to monitor the op-*  
21   *eration, cost, and effectiveness of the*  
22   *PACE program.*

23   “(ii) *REQUIREMENTS DURING TRIAL*  
24   *PERIOD.—During the first 3 years of oper-*  
25   *ation of a PACE program (either under this*

1            *section or under a PACE demonstration*  
2            *waiver program), the PACE provider shall*  
3            *provide such additional data as the Sec-*  
4            *retary specifies in regulations in order to*  
5            *perform the oversight required under para-*  
6            *graph (4)(A).*

7            *“(B) DEVELOPMENT OF OUTCOME MEAS-*  
8            *URES.—Under a PACE program agreement, the*  
9            *PACE provider, the Secretary, and the State ad-*  
10           *ministering agency shall jointly cooperate in the*  
11           *development and implementation of health status*  
12           *and quality of life outcome measures with respect*  
13           *to PACE program eligible individuals.*

14           *“(4) OVERSIGHT.—*

15           *“(A) ANNUAL, CLOSE OVERSIGHT DURING*  
16           *TRIAL PERIOD.—During the trial period (as de-*  
17           *fin ed in subsection (a)(9)) with respect to a*  
18           *PACE program operated by a PACE provider,*  
19           *the Secretary (in cooperation with the State ad-*  
20           *ministering agency) shall conduct a comprehen-*  
21           *sive annual review of the operation of the PACE*  
22           *program by the provider in order to assure com-*  
23           *pliance with the requirements of this section and*  
24           *regulations. Such a review shall include—*

25           *“(i) an onsite visit to the program site;*

1           “(ii) *comprehensive assessment of a*  
2           *provider’s fiscal soundness;*

3           “(iii) *comprehensive assessment of the*  
4           *provider’s capacity to provide all PACE*  
5           *services to all enrolled participants;*

6           “(iv) *detailed analysis of the entity’s*  
7           *substantial compliance with all significant*  
8           *requirements of this section and regulations;*  
9           *and*

10           “(v) *any other elements the Secretary*  
11           *or the State administering agency considers*  
12           *necessary or appropriate.*

13           “(B) *CONTINUING OVERSIGHT.—After the*  
14           *trial period, the Secretary (in cooperation with*  
15           *the State administering agency) shall continue*  
16           *to conduct such review of the operation of PACE*  
17           *providers and PACE programs as may be appro-*  
18           *priate, taking into account the performance level*  
19           *of a provider and compliance of a provider with*  
20           *all significant requirements of this section and*  
21           *regulations.*

22           “(C) *DISCLOSURE.—The results of reviews*  
23           *under this paragraph shall be reported promptly*  
24           *to the PACE provider, along with any rec-*  
25           *ommendations for changes to the provider’s pro-*

1           *gram, and shall be made available to the public*  
2           *upon request.*

3           “(5) *TERMINATION OF PACE PROVIDER AGREE-*  
4           *MENTS.—*

5           “(A) *IN GENERAL.—Under regulations—*

6                   “(i) *the Secretary or a State admin-*  
7                   *istering agency may terminate a PACE*  
8                   *program agreement for cause, and*

9                   “(ii) *a PACE provider may terminate*  
10                   *such an agreement after appropriate notice*  
11                   *to the Secretary, the State administering*  
12                   *agency, and enrollees.*

13           “(B) *CAUSES FOR TERMINATION.—In ac-*  
14           *cordance with regulations establishing procedures*  
15           *for termination of PACE program agreements,*  
16           *the Secretary or a State administering agency*  
17           *may terminate a PACE program agreement with*  
18           *a PACE provider for, among other reasons, the*  
19           *fact that—*

20                   “(i) *the Secretary or State administer-*  
21                   *ing agency determines that—*

22                           “(I) *there are significant defi-*  
23                           *ciencies in the quality of care provided*  
24                           *to enrolled participants; or*

1                   “(II) the provider has failed to  
2                   comply substantially with conditions  
3                   for a program or provider under this  
4                   section or section 1894; and

5                   “(ii) the entity has failed to develop  
6                   and successfully initiate, within 30 days of  
7                   the date of the receipt of written notice of  
8                   such a determination, a plan to correct the  
9                   deficiencies, or has failed to continue imple-  
10                  mentation of such a plan.

11                  “(C) *TERMINATION AND TRANSITION PROCE-*  
12                  *DURES.—An entity whose PACE provider agree-*  
13                  *ment is terminated under this paragraph shall*  
14                  *implement the transition procedures required*  
15                  *under subsection (a)(2)(C).*

16                  “(6) *SECRETARY’S OVERSIGHT; ENFORCEMENT*  
17                  *AUTHORITY.—*

18                  “(A) *IN GENERAL.—Under regulations, if*  
19                  *the Secretary determines (after consultation with*  
20                  *the State administering agency) that a PACE*  
21                  *provider is failing substantially to comply with*  
22                  *the requirements of this section and regulations,*  
23                  *the Secretary (and the State administering agen-*  
24                  *cy) may take any or all of the following actions:*

1           “(i) Condition the continuation of the  
2           *PACE* program agreement upon timely exe-  
3           cution of a corrective action plan.

4           “(ii) Withhold some or all further pay-  
5           ments under the *PACE* program agreement  
6           under this section or section 1894 with re-  
7           spect to *PACE* program services furnished  
8           by such provider until the deficiencies have  
9           been corrected.

10          “(iii) Terminate such agreement.

11          “(B) *APPLICATION OF INTERMEDIATE SANC-*  
12          *TIONS.—*Under regulations, the Secretary may  
13          provide for the application against a *PACE* pro-  
14          vider of remedies described in section 1857(f)(2)  
15          (or, for periods before January 1, 1999, section  
16          1876(i)(6)(B)) or 1903(m)(5)(B) in the case of  
17          violations by the provider of the type described  
18          in section 1857(f)(1) (or 1876(i)(6)(A) for such  
19          periods) or 1903(m)(5)(A), respectively (in rela-  
20          tion to agreements, enrollees, and requirements  
21          under section 1894 or this section, respectively).

22          “(7) *PROCEDURES FOR TERMINATION OR IMPOSI-*  
23          *TION OF SANCTIONS.—*Under regulations, the provi-  
24          sions of section 1857(g) (or for periods before January  
25          1, 1999, section 1876(i)(9)) shall apply to termi-

1 *nation and sanctions respecting a PACE program*  
2 *agreement and PACE provider under this subsection*  
3 *in the same manner as they apply to a termination*  
4 *and sanctions with respect to a contract and a Medi-*  
5 *care Choice organization under part C of title XVIII*  
6 *(or for such periods an eligible organization under*  
7 *section 1876).*

8 “(8) *TIMELY CONSIDERATION OF APPLICATIONS*  
9 *FOR PACE PROGRAM PROVIDER STATUS.—In consider-*  
10 *ing an application for PACE provider program sta-*  
11 *tus, the application shall be deemed approved unless*  
12 *the Secretary, within 90 days after the date of the*  
13 *submission of the application to the Secretary, either*  
14 *denies such request in writing or informs the appli-*  
15 *cant in writing with respect to any additional infor-*  
16 *mation that is needed in order to make a final deter-*  
17 *mination with respect to the application. After the*  
18 *date the Secretary receives such additional informa-*  
19 *tion, the application shall be deemed approved unless*  
20 *the Secretary, within 90 days of such date, denies*  
21 *such request.*

22 “(f) *REGULATIONS.—*

23 “(1) *IN GENERAL.—The Secretary shall issue in-*  
24 *terim final or final regulations to carry out this sec-*  
25 *tion and section 1894.*

1           “(2) *USE OF PACE PROTOCOL.*—

2                   “(A) *IN GENERAL.*—*In issuing such regula-*  
3                   *tions, the Secretary shall, to the extent consistent*  
4                   *with the provisions of this section, incorporate*  
5                   *the requirements applied to PACE demonstra-*  
6                   *tion waiver programs under the PACE protocol.*

7                   “(B) *FLEXIBILITY.*—*In order to provide for*  
8                   *reasonable flexibility in adapting the PACE*  
9                   *service delivery model to the needs of particular*  
10                   *organizations (such as those in rural areas or*  
11                   *those that may determine it appropriate to use*  
12                   *nonstaff physicians according to State licensing*  
13                   *law requirements) under this section and section*  
14                   *1894, the Secretary (in close consultation with*  
15                   *State administering agencies) may modify or*  
16                   *wave provisions of the PACE protocol so long as*  
17                   *any such modification or waiver is not inconsis-*  
18                   *ent with and would not impair the essential ele-*  
19                   *ments, objectives, and requirements of this sec-*  
20                   *tion, but may not modify or waive any of the*  
21                   *following provisions:*

22                           “(i) *The focus on frail elderly qualify-*  
23                           *ing individuals who require the level of care*  
24                           *provided in a nursing facility.*

1                   “(ii) *The delivery of comprehensive, in-*  
2                   *tegrated acute and long-term care services.*

3                   “(iii) *The interdisciplinary team ap-*  
4                   *proach to care management and service de-*  
5                   *livery.*

6                   “(iv) *Capitated, integrated financing*  
7                   *that allows the provider to pool payments*  
8                   *received from public and private programs*  
9                   *and individuals.*

10                   “(v) *The assumption by the provider of*  
11                   *full financial risk.*

12                   “(3) *APPLICATION OF CERTAIN ADDITIONAL BEN-*  
13                   *EFICIARY AND PROGRAM PROTECTIONS.—*

14                   “(A) *IN GENERAL.—In issuing such regula-*  
15                   *tions and subject to subparagraph (B), the Sec-*  
16                   *retary may apply with respect to PACE pro-*  
17                   *grams, providers, and agreements such require-*  
18                   *ments of part C of title XVIII (or, for periods be-*  
19                   *fore January 1, 1999, section 1876) and section*  
20                   *1903(m) relating to protection of beneficiaries*  
21                   *and program integrity as would apply to Medi-*  
22                   *care Choice organizations under such part C (or*  
23                   *for such periods eligible organizations under*  
24                   *risk-sharing contracts under section 1876) and to*

1           *health maintenance organizations under prepaid*  
2           *capitation agreements under section 1903(m).*

3           “(B) *CONSIDERATIONS.—In issuing such*  
4           *regulations, the Secretary shall—*

5                     “(i) *take into account the differences*  
6                     *between populations served and benefits*  
7                     *provided under this section and under part*  
8                     *C of title XVIII (or, for periods before Jan-*  
9                     *uary 1, 1999, section 1876) and section*  
10                    *1903(m);*

11                   “(ii) *not include any requirement that*  
12                   *conflicts with carrying out PACE programs*  
13                   *under this section; and*

14                   “(iii) *not include any requirement re-*  
15                    *stricting the proportion of enrollees who are*  
16                    *eligible for benefits under this title or title*  
17                    *XVIII.*

18           “(g) *WAIVERS OF REQUIREMENTS.—With respect to*  
19           *carrying out a PACE program under this section, the fol-*  
20           *lowing requirements of this title (and regulations relating*  
21           *to such requirements) shall not apply:*

22                   “(1) *Section 1902(a)(1), relating to any require-*  
23                    *ment that PACE programs or PACE program serv-*  
24                    *ices be provided in all areas of a State.*

1           “(2) Section 1902(a)(10), insofar as such section  
2           relates to comparability of services among different  
3           population groups.

4           “(3) Sections 1902(a)(23) and 1915(b)(4), relat-  
5           ing to freedom of choice of providers under a PACE  
6           program.

7           “(4) Section 1903(m)(2)(A), insofar as it re-  
8           stricts a PACE provider from receiving prepaid capi-  
9           tation payments.

10          “(h) DEMONSTRATION PROJECT FOR FOR-PROFIT EN-  
11          TITIES.—

12           “(1) IN GENERAL.—In order to demonstrate the  
13           operation of a PACE program by a private, for-profit  
14           entity, the Secretary (in close consultation with State  
15           administering agencies) shall grant waivers from the  
16           requirement under subsection (a)(3) that a PACE  
17           provider may not be a for-profit, private entity.

18           “(2) SIMILAR TERMS AND CONDITIONS.—

19           “(A) IN GENERAL.—Except as provided  
20           under subparagraph (B), and paragraph (1), the  
21           terms and conditions for operation of a PACE  
22           program by a provider under this subsection  
23           shall be the same as those for PACE providers  
24           that are nonprofit, private organizations.

1           “(B) *NUMERICAL LIMITATION.*—*The number*  
2           *of programs for which waivers are granted under*  
3           *this subsection shall not exceed 10. Programs*  
4           *with waivers granted under this subsection shall*  
5           *not be counted against the numerical limitation*  
6           *specified in subsection (e)(1)(B).*

7           “(i) *POST-ELIGIBILITY TREATMENT OF INCOME.*—*A*  
8           *State may provide for post-eligibility treatment of income*  
9           *for individuals enrolled in PACE programs under this sec-*  
10          *tion in the same manner as a State treats post-eligibility*  
11          *income for individuals receiving services under a waiver*  
12          *under section 1915(c).*

13          “(j) *MISCELLANEOUS PROVISIONS.*—*Nothing in this*  
14          *section or 1894 shall be construed as preventing a PACE*  
15          *provider from entering into contracts with other govern-*  
16          *mental or nongovernmental payers for the care of PACE*  
17          *program eligible individuals who are not eligible for bene-*  
18          *fits under part A, or enrolled under part B, of title XVIII*  
19          *or eligible for medical assistance under this title.”.*

20          “(b) *CONFORMING AMENDMENTS.*—

21                 (1) *Section 1902(j) (42 U.S.C. 1396a(j)), as*  
22                 *amended by section 5702(a)(2)(B), is amended by*  
23                 *striking “(26)” and inserting “(27)”.*

24                 (2) *Section 1924(a)(5) (42 U.S.C. 1396r-*  
25                 *5(a)(5)) is amended—*

1           (A) *in the heading, by striking “FROM OR-*  
2           *GANIZATIONS RECEIVING CERTAIN WAIVERS” and*  
3           *inserting “UNDER PACE PROGRAMS”;* and

4           (B) *by striking “from any organization”*  
5           *and all that follows and inserting “under a*  
6           *PACE demonstration waiver program (as de-*  
7           *fined in section 1932(a)(7)) or under a PACE*  
8           *program under section 1932 or 1894.”.*

9           (3) *Section 1903(f)(4)(C) (42 U.S.C.*  
10          *1396b(f)(4)(C)) is amended by inserting “or who is a*  
11          *PACE program eligible individual enrolled in a*  
12          *PACE program under section 1932,” after “section*  
13          *1902(a)(10)(A),”.*

14 **SEC. 5742. EFFECTIVE DATE; TRANSITION.**

15          (a) *TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE*  
16          *DATE.—The Secretary of Health and Human Services shall*  
17          *promulgate regulations to carry out this chapter in a timely*  
18          *manner. Such regulations shall be designed so that entities*  
19          *may establish and operate PACE programs under sections*  
20          *1894 and 1932 of the Social Security Act (as added by sec-*  
21          *tions 5011 and 5741 of this Act) for periods beginning not*  
22          *later than 1 year after the date of the enactment of this*  
23          *Act.*

24          (b) *EXPANSION AND TRANSITION FOR PACE DEM-*  
25          *ONSTRATION PROJECT WAIVERS.—*

1           (1) *EXPANSION IN CURRENT NUMBER AND EX-*  
2           *TENSION OF DEMONSTRATION PROJECTS.*—Section  
3           9412(b) of the Omnibus Budget Reconciliation Act of  
4           1986, as amended by section 4118(g) of the Omnibus  
5           Budget Reconciliation Act of 1987, is amended—

6                   (A) in paragraph (1), by inserting before  
7           the period at the end the following: “, except that  
8           the Secretary shall grant waivers of such require-  
9           ments to up to the applicable numerical limita-  
10          tion specified in section 1933(e)(1)(B) of the So-  
11          cial Security Act”; and

12                   (B) in paragraph (2)—

13                   (i) in subparagraph (A), by striking “,  
14           including permitting the organization to as-  
15           sume progressively (over the initial 3-year  
16           period of the waiver) the full financial  
17           risk”; and

18                   (ii) in subparagraph (C), by adding at  
19           the end the following: “In granting further  
20           extensions, an organization shall not be re-  
21           quired to provide for reporting of informa-  
22           tion which is only required because of the  
23           demonstration nature of the project.”.

24           (2) *ELIMINATION OF REPLICATION REQUIRE-*  
25           *MENT.*—Section 9412(b)(2)(B) of such Act, as so

1        *amended, shall not apply to waivers granted under*  
2        *such section after the date of the enactment of this*  
3        *Act.*

4            (3) *TIMELY CONSIDERATION OF APPLICATIONS.—*  
5        *In considering an application for waivers under such*  
6        *section before the effective date of the repeals under*  
7        *subsection (d), subject to the numerical limitation*  
8        *under the amendment made by paragraph (1), the*  
9        *application shall be deemed approved unless the Sec-*  
10       *retary of Health and Human Services, within 90*  
11       *days after the date of its submission to the Secretary,*  
12       *either denies such request in writing or informs the*  
13       *applicant in writing with respect to any additional*  
14       *information which is needed in order to make a final*  
15       *determination with respect to the application. After*  
16       *the date the Secretary receives such additional infor-*  
17       *mation, the application shall be deemed approved un-*  
18       *less the Secretary, within 90 days of such date, denies*  
19       *such request.*

20            (c) *PRIORITY AND SPECIAL CONSIDERATION IN APPLI-*  
21       *CATION.—During the 3-year period beginning on the date*  
22       *of the enactment of this Act:*

23            (1) *PROVIDER STATUS.—The Secretary of Health*  
24       *and Human Services shall give priority in processing*  
25       *applications of entities to qualify as PACE programs*

1       *under section 1894 or 1932 of the Social Security*  
2       *Act—*

3               *(A) first, to entities that are operating a*  
4               *PACE demonstration waiver program (as de-*  
5               *finied in section 1932(a)(7) of such Act), and*

6               *(B) then to entities that have applied to op-*  
7               *erate such a program as of May 1, 1997.*

8               *(2) NEW WAIVERS.—The Secretary shall give*  
9               *priority, in the awarding of additional waivers under*  
10              *section 9412(b) of the Omnibus Budget Reconciliation*  
11              *Act of 1986—*

12              *(A) to any entities that have applied for*  
13              *such waivers under such section as of May 1,*  
14              *1997; and*

15              *(B) to any entity that, as of May 1, 1997,*  
16              *has formally contracted with a State to provide*  
17              *services for which payment is made on a*  
18              *capitated basis with an understanding that the*  
19              *entity was seeking to become a PACE provider.*

20              *(3) SPECIAL CONSIDERATION.—The Secretary*  
21              *shall give special consideration, in the processing of*  
22              *applications described in paragraph (1) and the*  
23              *awarding of waivers described in paragraph (2), to*  
24              *an entity which as of May 1, 1997, through formal*  
25              *activities (such as entering into contracts for feasibil-*

1        *ity studies) has indicated a specific intent to become*  
2        *a PACE provider.*

3        *(d) REPEAL OF CURRENT PACE DEMONSTRATION*  
4        *PROJECT WAIVER AUTHORITY.—*

5                *(1) IN GENERAL.—Subject to paragraph (2), the*  
6        *following provisions of law are repealed:*

7                *(A) Section 603(c) of the Social Security*  
8        *Amendments of 1983 (Public Law 98–21).*

9                *(B) Section 9220 of the Consolidated Omni-*  
10        *bus Budget Reconciliation Act of 1985 (Public*  
11        *Law 99–272).*

12                *(C) Section 9412(b) of the Omnibus Budget*  
13        *Reconciliation Act of 1986 (Public Law 99–509).*

14        *(2) DELAY IN APPLICATION.—*

15                *(A) IN GENERAL.—Subject to subparagraph*  
16        *(B), the repeals made by paragraph (1) shall not*  
17        *apply to waivers granted before the initial effec-*  
18        *tive date of regulations described in subsection*  
19        *(a).*

20                *(B) APPLICATION TO APPROVED WAIVERS.—*  
21        *Such repeals shall apply to waivers granted be-*  
22        *fore such date only after allowing such organiza-*  
23        *tions a transition period (of up to 24 months) in*  
24        *order to permit sufficient time for an orderly*  
25        *transition from demonstration project authority*

1           to general authority provided under the amend-  
2           ments made by this chapter.

3 **SEC. 5743. STUDY AND REPORTS.**

4       (a) *STUDY.*—

5           (1) *IN GENERAL.*—*The Secretary of Health and*  
6           *Human Services (in close consultation with State ad-*  
7           *ministering agencies, as defined in section 1932(a)(8)*  
8           *of the Social Security Act) shall conduct a study of*  
9           *the quality and cost of providing PACE program*  
10          *services under the medicare and medicaid programs*  
11          *under the amendments made by this chapter.*

12          (2) *STUDY OF PRIVATE, FOR-PROFIT PROVID-*  
13          *ERS.*—*Such study shall specifically compare the costs,*  
14          *quality, and access to services by entities that are pri-*  
15          *vate, for-profit entities operating under demonstra-*  
16          *tion projects waivers granted under section 1932(h) of*  
17          *the Social Security Act with the costs, quality, and*  
18          *access to services of other PACE providers.*

19       (b) *REPORT.*—

20          (1) *IN GENERAL.*—*Not later than 4 years after*  
21          *the date of the enactment of this Act, the Secretary*  
22          *shall provide for a report to Congress on the impact*  
23          *of such amendments on quality and cost of services.*  
24          *The Secretary shall include in such report such rec-*

1        *ommendations for changes in the operation of such*  
2        *amendments as the Secretary deems appropriate.*

3            (2) *TREATMENT OF PRIVATE, FOR-PROFIT PRO-*  
4        *VIDERS.—The report shall include specific findings on*  
5        *whether any of the following findings is true:*

6            (A) *The number of covered lives enrolled*  
7        *with entities operating under demonstration*  
8        *project waivers under section 1932(h) of the So-*  
9        *cial Security Act is fewer than 800 (or such less-*  
10       *er number as the Secretary may find statis-*  
11       *tically sufficient to make determinations respect-*  
12       *ing findings described in the succeeding subpara-*  
13       *graphs).*

14           (B) *The population enrolled with such enti-*  
15       *ties is less frail than the population enrolled*  
16       *with other PACE providers.*

17           (C) *Access to or quality of care for individ-*  
18       *uals enrolled with such entities is lower than*  
19       *such access or quality for individuals enrolled*  
20       *with other PACE providers.*

21           (D) *The application of such section has re-*  
22       *sulted in an increase in expenditures under the*  
23       *medicare or medicaid programs above the ex-*  
24       *penditures that would have been made if such*  
25       *section did not apply.*

1           (c) *INFORMATION INCLUDED IN ANNUAL REC-*  
2 *COMMENDATIONS.—The Physician Payment Review Com-*  
3 *mission shall include in its annual recommendations under*  
4 *section 1845(b) of the Social Security Act (42 U.S.C.*  
5 *1395w–1), and the Prospective Payment Review Commis-*  
6 *sion shall include in its annual recommendations reported*  
7 *under section 1886(e)(3)(A) of such Act (42 U.S.C.*  
8 *1395ww(e)(3)(A)), recommendations on the methodology*  
9 *and level of payments made to PACE providers under sec-*  
10 *tion 1894(d) of such Act and on the treatment of private,*  
11 *for-profit entities as PACE providers. References in the pre-*  
12 *ceding sentence to the Physician Payment Review Commis-*  
13 *sion and the Prospective Payment Review Commission shall*  
14 *be deemed to be references to the Medicare Payment Advi-*  
15 *sory Commission (MedPAC) established under section*  
16 *5022(a) after the termination of the Physician Payment Re-*  
17 *view Commission and the Prospective Payment Review*  
18 *Commission provided for in section 5022(c)(2).*

19           **CHAPTER 4—MEDICAID MANAGEMENT**  
20                           **AND PROGRAM REFORMS**

21           **SEC. 5751. ELIMINATION OF REQUIREMENT TO PAY FOR**  
22                           **PRIVATE INSURANCE.**

23           (a) *REPEAL OF STATE PLAN PROVISION.—Section*  
24 *1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—*

25                           (1) *by striking subparagraph (G); and*

1           (2) by redesignating subparagraphs (H) and (I)  
2           as subparagraphs (G) and (H), respectively.

3           (b) *REPEAL OF ENROLLMENT REQUIREMENTS.*—Sec-  
4           tion 1906 (42 U.S.C. 1396e) is repealed.

5           (c) *REINSTATEMENT OF STATE OPTION.*—Section  
6           1905(a) (42 U.S.C. 1396a(a)) is amended, in the matter  
7           preceding clause (i), by inserting “(including, at State op-  
8           tion, through purchase or payment of enrollee costs of health  
9           insurance)” after “The term ‘medical assistance’ means  
10          payment”.

11       **SEC. 5752. ELIMINATION OF OBSTETRICAL AND PEDIATRIC**  
12                               **PAYMENT RATE REQUIREMENTS.**

13          (a) *IN GENERAL.*—Section 1926 (42 U.S.C. 1396r-7)  
14          is repealed.

15          (b) *EFFECTIVE DATE.*—The repeal made by subsection  
16          (a) shall apply to services furnished on or after October 1,  
17          1997.

18       **SEC. 5753. PHYSICIAN QUALIFICATION REQUIREMENTS.**

19          (a) *IN GENERAL.*—Section 1903(i) (42 U.S.C.  
20          1396b(i)) is amended by striking paragraph (12).

21          (b) *EFFECTIVE DATE.*—The amendment made by sub-  
22          section (a) shall apply to services furnished on or after the  
23          date of the enactment of this Act.

1 **SEC. 5754. EXPANDED COST-SHARING REQUIREMENTS.**

2 *Section 1916 (42 U.S.C. 1396o) is amended by adding*  
3 *at the end the following:*

4 *“(g)(1) Notwithstanding any other provision of this*  
5 *title, the State plan may impose cost-sharing with respect*  
6 *to any medical assistance provided to an individual who*  
7 *is not described in section 1902(a)(10)(A)(i) in accordance*  
8 *with the provisions of this subsection, except that no cost-*  
9 *sharing may be imposed with respect to medical assistance*  
10 *provided to an individual who has not attained age 18 if*  
11 *such individual’s family income does not exceed 150 percent*  
12 *of the poverty line applicable to a family of the size in-*  
13 *volved, and if, as of the date of enactment of the Balanced*  
14 *Budget Act of 1997, cost-sharing could not be imposed with*  
15 *respect to medical assistance provided to such individual.*

16 *“(2) Any cost-sharing imposed under this subsection*  
17 *shall be pursuant to a public schedule and shall reflect such*  
18 *economic factors, employment status, and family size with*  
19 *respect to each such individual as the State determines ap-*  
20 *propriate.*

21 *“(3) In the case of any family whose income is less*  
22 *than 150 percent of the income official poverty line (as de-*  
23 *finied by the Office of Management and Budget, and revised*  
24 *annually in accordance with section 673(2) of the Omnibus*  
25 *Budget Reconciliation Act of 1981) applicable to a family*  
26 *of the size involved, the total annual amount of cost-sharing*

1 *that may be imposed for such family shall not exceed 3 per-*  
2 *cent of the family's average gross monthly earnings (less*  
3 *the average monthly costs for such child care as is necessary*  
4 *for the employment of the caretaker relative) for such pe-*  
5 *riod.*

6       “(4) *In the case of any family whose income exceeds*  
7 *150 percent, but does not exceed 200 percent of, such poverty*  
8 *line, paragraph (3) shall be applied by substituting ‘5 per-*  
9 *cent’ for ‘3 percent’.*

10       “(5) *Nothing in this subsection shall be construed as*  
11 *preventing a State from imposing cost-sharing with respect*  
12 *to individuals eligible for medical assistance under the*  
13 *State plan, or with respect to items or services provided*  
14 *as medical assistance under such plan, if the provisions of*  
15 *this title otherwise allow the State to do so or if the State*  
16 *has received a waiver that authorizes such cost-sharing.*

17       “(6) *Any cost-sharing imposed under this subsection*  
18 *may not be included in determining the amount of the State*  
19 *percentage required for reimbursement of expenditures*  
20 *under a State plan under this title.*

21       “(7) *In this subsection, the term ‘cost-sharing’ includes*  
22 *copayments, deductibles, coinsurance, enrollment fees, pre-*  
23 *miums, and other charges for the provision of health care*  
24 *services.’.*”

1 **SEC. 5755. PENALTY FOR FRAUDULENT ELIGIBILITY.**

2 *Section 1128B(a) (42 U.S.C. 1320a–7b(a)), as amend-*  
3 *ed by section 217 of the Health Insurance Portability and*  
4 *Accountability Act of 1996, is amended—*

5 *(1) by amending paragraph (6) to read as fol-*  
6 *lows:*

7 *“(6) for a fee knowingly and willfully counsels or*  
8 *assists an individual to dispose of assets (including*  
9 *by any transfer in trust) in order for the individual*  
10 *to become eligible for medical assistance under a*  
11 *State plan under title XIX, if disposing of the assets*  
12 *results in the imposition of a period of ineligibility*  
13 *for such assistance under section 1917(c),”;* and

14 *(2) in clause (ii) of the matter following such*  
15 *paragraph, by striking “failure, or conversion by any*  
16 *other person” and inserting “failure, conversion, or*  
17 *provision of counsel or assistance by any other per-*  
18 *son”.*

19 **SEC. 5756. ELIMINATION OF WASTE, FRAUD, AND ABUSE.**

20 *(a) BAN ON SPENDING FOR NONHEALTH RELATED*  
21 *ITEMS.—Section 1903(i) (42 U.S.C. 1396b(i)) is amend-*  
22 *ed—*

23 *(1) in paragraphs (2) and (15), by striking the*  
24 *period at the end and inserting “; or”;*

25 *(2) in paragraphs (10)(B), (11), and (13), by*  
26 *adding “or” at the end; and*

1           (3) by inserting after paragraph (15), the follow-  
2           ing:

3           “(16) with respect to any amount expended for  
4           roads, bridges, stadiums, or any other item or service  
5           not covered under a State plan under this title.”.

6           (b) *DISCLOSURE OF INFORMATION AND SURETY BOND*  
7           *REQUIREMENT FOR SUPPLIERS OF DURABLE MEDICAL*  
8           *EQUIPMENT.*—

9           (1) *REQUIREMENT.*—Section 1902(a) (42 U.S.C.  
10          1396a(a)), is amended—

11           (A) by striking “and” at the end of para-  
12           graph (62);

13           (B) by striking the period at the end of  
14           paragraph (63) and inserting “; and”; and

15           (C) by inserting after paragraph (63) the  
16           following:

17           “(64) provide that the State shall not issue or  
18           renew a provider number for a supplier of medical  
19           assistance consisting of durable medical equipment, as  
20           defined in section 1861(n), for purposes of payment  
21           under this part for such assistance that is furnished  
22           by the supplier, unless the supplier provides the State  
23           agency on a continuing basis with—

24           “(A)(i) full and complete information as to  
25           the identity of each person with an ownership or

1           *control interest (as defined in section 1124(a)(3))*  
2           *in the supplier or in any subcontractor (as de-*  
3           *defined by the Secretary in regulations) in which*  
4           *the supplier directly or indirectly has a 5 per-*  
5           *cent or more ownership interest; and*

6           *(ii) to the extent determined to be feasible*  
7           *under regulations of the Secretary, the name of*  
8           *any disclosing entity (as defined in section*  
9           *1124(a)(2)) with respect to which a person with*  
10           *such an ownership or control interest in the sup-*  
11           *plier is a person with such an ownership or con-*  
12           *trol interest in the disclosing entity; and*

13           *“(B) a surety bond in a form specified by*  
14           *the State and in an amount that is not less than*  
15           *\$50,000.”.*

16           (2) *EFFECTIVE DATE.*—*The amendment made*  
17           *by paragraph (1) shall apply to suppliers of medical*  
18           *assistance consisting of durable medical equipment*  
19           *furnished on or after January 1, 1998.*

20           (c) *SURETY BOND REQUIREMENT FOR HOME HEALTH*  
21 *AGENCIES.*—

22           (1) *IN GENERAL.*—*Section 1905(a)(7) (42 U.S.C.*  
23           *1396d(a)(7) is amended by inserting “, provided that*  
24           *the agency or organization providing such services*  
25           *provides the State agency on a continuing basis with*

1        *a surety bond in a form specified by the State and*  
2        *in an amount that is not less than \$50,000” after*  
3        *“services”.*

4            (2) *EFFECTIVE DATE.*—*The amendment made by*  
5        *paragraph (1) shall apply to home health agencies*  
6        *with respect to services furnished on or after January*  
7        *1, 1998.*

8            (d) *CONFLICT OF INTEREST SAFEGUARDS.*—*Section*  
9        *1902(a)(4) (42 U.S.C. 1396a(a)(4)) is amended to read as*  
10       *follows:*

11            “(4) *provide—*

12            “(A) *such methods of administration (in-*  
13        *cluding methods relating to the establishment*  
14        *and maintenance of personnel standards on a*  
15        *merit basis, except that the Secretary shall exer-*  
16        *cise no authority with respect to the selection,*  
17        *tenure of office, and compensation of any indi-*  
18        *vidual employed in accordance with such meth-*  
19        *ods, and including provision for utilization of*  
20        *professional medical personnel in the adminis-*  
21        *tration and, where administered locally, super-*  
22        *vision of administration of the plan) as are*  
23        *found by the Secretary to be necessary for the*  
24        *proper and efficient operation of the plan;*

1           “(B) for the training and effective use of  
2           paid subprofessional staff, with particular em-  
3           phasis on the full-time or part-time employment  
4           of recipients and other persons of low income, as  
5           community service aides, in the administration  
6           of the plan and for the use of nonpaid or par-  
7           tially paid volunteers in a social service volun-  
8           teer program in providing services to applicants  
9           and recipients and in assisting any advisory  
10          committees established by the State agency; and

11          “(C) that each State or local officer or em-  
12          ployee, or independent contractor—

13                 “(i) who is responsible for the expendi-  
14                 ture of substantial amounts of funds under  
15                 the State plan, or who is responsible for ad-  
16                 ministering the State plan under this title,  
17                 each individual who formerly was such an  
18                 officer, employee, or independent contractor,  
19                 and each partner of such an officer, em-  
20                 ployee, or independent contractor shall be  
21                 prohibited from committing any act, in re-  
22                 lation to any activity under the plan, the  
23                 commission of which, in connection with  
24                 any activity concerning the United States  
25                 Government, by an officer or employee of

1           *the United States Government, an individ-*  
2           *ual who was such an officer or employee, or*  
3           *a partner of such an officer or employee is*  
4           *prohibited by section 207 or 208 of title 18,*  
5           *United States Code; and*

6           “(ii) *who is responsible for selecting,*  
7           *awarding, or otherwise obtaining items and*  
8           *services under the State plan shall be sub-*  
9           *ject to safeguards against conflicts of inter-*  
10           *est that are at least as stringent as the safe-*  
11           *guards that apply under section 27 of the*  
12           *Office of Federal Procurement Policy Act*  
13           *(41 U.S.C. 423) to persons described in sub-*  
14           *section (a)(2) of such section of that Act;”.*

15           *(e) AUTHORITY TO REFUSE TO ENTER INTO MEDICAID*  
16           *AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED*  
17           *OF FELONIES.—Section 1902(a)(23) (42 U.S.C.*  
18           *1396a(a)(23)) is amended to read as follows:*

19           “(23) *provide that—*

20           “(A) *any individual eligible for medical as-*  
21           *istance (including drugs) may obtain such as-*  
22           *istance from any institution, agency, commu-*  
23           *nity pharmacy, or person, qualified to perform*  
24           *the service or services required (including an or-*  
25           *ganization which provides such services, or ar-*

1           *ranges for their availability, on a prepayment*  
2           *basis), who undertakes to provide him such serv-*  
3           *ices; and*

4           “(B) *an enrollment of an individual eligible*  
5           *for medical assistance in a primary care case-*  
6           *management system (described in section*  
7           *1915(b)(1)), a health maintenance organization,*  
8           *or a similar entity shall not restrict the choice*  
9           *of the qualified person from whom the individual*  
10           *may receive services under section 1905(a)(4)(C),*  
11           *except as provided in subsection (g) and in section*  
12           *1915, except in the case of Puerto Rico, the Virgin Is-*  
13           *lands, and Guam, and except that nothing in this*  
14           *paragraph shall be construed as requiring a State to*  
15           *provide medical assistance for items or services fur-*  
16           *nished by a person or entity convicted of a felony*  
17           *under Federal or State law for an offense which the*  
18           *State agency determines is inconsistent with the best*  
19           *interest of beneficiaries under the State plan;”.*

20           *(f) MONITORING PAYMENTS FOR DUAL ELIGIBLES.—*  
21           *The Administrator of the Health Care Financing Adminis-*  
22           *tration shall—*

23           (1) *develop mechanisms to better monitor and*  
24           *prevent inappropriate payments under the medicaid*  
25           *program under title XIX of the Social Security Act*

1       (42 U.S.C. 1396 et seq.) in the case of individuals  
2       who are dually eligible for benefits under such pro-  
3       gram and under the medicare program under title  
4       XVIII of such Act (42 U.S.C. 1395 et seq.);

5               (2) study the use of case management or care co-  
6       ordination in order to improve the appropriateness of  
7       care, quality of care, and cost effectiveness of care for  
8       individuals who are dually eligible for benefits under  
9       such programs; and

10              (3) work with the States to ensure better care co-  
11       ordination for dual eligibles and make recommenda-  
12       tions to Congress as to any statutory changes that  
13       would not compromise beneficiary protections and  
14       that would improve or facilitate such care.

15       (g) *BENEFICIARY AND PROGRAM PROTECTION*  
16 *AGAINST WASTE, FRAUD, AND ABUSE.—Section 1902(a)*  
17 *(42 U.S.C. 1396a(a)), as amended by subsection (b)(1), is*  
18 *amended—*

19              (1) by striking “and” at the end of paragraph  
20       (63);

21              (2) by striking the period at the end of para-  
22       graph (64) and inserting “; and”; and

23              (3) by inserting after paragraph (64) the follow-  
24       ing:

25              “(65) provide programs—

1           “(A) to ensure program integrity, protect  
2 and advocate on behalf of individuals, and to re-  
3 port to the State data concerning beneficiary  
4 concerns and complaints and instances of bene-  
5 ficiary abuse or program waste or fraud by  
6 managed care plans operating in the State under  
7 contact with the State agency;

8           “(B) to provide assistance to beneficiaries,  
9 with particular emphasis on the families of spe-  
10 cial needs children and persons with disabilities  
11 to—

12                   “(i) explain the differences between  
13 managed care and fee-for-service plans;

14                   “(ii) clarify the coverage for such bene-  
15 ficiaries under any managed care plan of-  
16 fered under the State plan under this title;

17                   “(iii) explain the implications of the  
18 choices between competing plans;

19                   “(iv) assist such beneficiaries in under-  
20 standing their rights under any managed  
21 care plan offered under the State plan, in-  
22 cluding their right to—

23                           “(I) access and benefits;

24                           “(II) nondiscrimination;

1                   “(III) grievance and appeal mech-  
2                   anisms; and

3                   “(IV) change plans, as designated  
4                   in the State plan; and

5                   “(v) exercise the rights described in  
6                   clause (iv); and

7                   “(C) to collect and report to the State data  
8                   on the number of complaints or instances identi-  
9                   fied under subparagraph (A) and to report to the  
10                  State annually on any systematic problems in  
11                  the implementation of managed care entities con-  
12                  tracting with the State under the State plan  
13                  under this title.”.

14 **SEC. 5757. STUDY ON EPSDT BENEFITS.**

15           (a) *STUDY.*—The Secretary of Health and Human  
16 *Services, in consultation with Governors, directors of State*  
17 *medicaid and State maternal and child programs, the In-*  
18 *stitute of Medicine, the American Academy of Pediatrics,*  
19 *and representatives of beneficiaries under the medicaid pro-*  
20 *gram under title XIX of the Social Security Act (42 U.S.C.*  
21 *1396 et seq.) shall conduct a study of the early and periodic*  
22 *screening, diagnostic, and treatment services provided*  
23 *under State plans under title XIX of the Social Security*  
24 *Act in accordance with section 1905(r) of such Act (42*  
25 *U.S.C. 1396d(r)).*

1           **(b) REPORT.**—*Not later than 12 months after the date*  
2 *of enactment of this Act, the Secretary of Health and*  
3 *Human Services shall submit a report to Congress on the*  
4 *results of the conducted study under subsection (a).*

5 **SEC. 5758. STUDY AND GUIDELINES REGARDING MANAGED**  
6 **CARE ORGANIZATIONS AND INDIVIDUALS**  
7 **WITH SPECIAL HEALTH CARE NEEDS.**

8           **(a) STUDY AND RECOMMENDATIONS.**—*The Secretary*  
9 *of Health and Human Services (in this section referred to*  
10 *as the “Secretary”), in consultation with States, managed*  
11 *care organizations, the National Academy of State Health*  
12 *Policy, representatives of beneficiaries with special health*  
13 *care needs, experts in specialized health care, and others,*  
14 *shall conduct a study and develop the guidelines described*  
15 *in subsection (b). Not later than 2 years after the date of*  
16 *enactment of this Act, the Secretary shall report such guide-*  
17 *lines to Congress and make recommendations for imple-*  
18 *menting legislation.*

19           **(b) GUIDELINES DESCRIBED.**—*The guidelines to be de-*  
20 *veloped by the Secretary shall relate to issues such as risk*  
21 *adjustment, solvency, medical necessity definitions, case*  
22 *management, quality controls, adequacy of provider net-*  
23 *works, access to specialists (including pediatric specialists*  
24 *and the use of specialists as primary care providers), mar-*  
25 *keting, compliance with the Americans with Disabilities Act*

1 of 1990 (42 U.S.C. 12101 et seq.), speedy grievance and ap-  
2 peals procedures, data collection, and such other matters as  
3 the Secretary may determine, as these issues affect care pro-  
4 vided to individuals with special health care needs and  
5 chronic conditions in capitated managed care or primary  
6 care case management plans. The Secretary shall distin-  
7 guish which guidelines should apply to primary care case  
8 management arrangements, to capitated risk sharing ar-  
9 rangements, or to both. Such guidelines should be designed  
10 to be used in reviewing State proposals under title XIX of  
11 the Social Security Act (42 U.S.C. 1396 et seq.) (by waiver  
12 request or State plan amendment) to implement mandatory  
13 capitated managed care or primary care case management  
14 arrangements that enroll beneficiaries with chronic condi-  
15 tions or special health care needs.

16 **CHAPTER 5—MISCELLANEOUS**

17 **SEC. 5761. INCREASED FMAPS.**

18 Section 1905(b) (42 U.S.C. 1396d(b)(1)) is amended—

19 (1) by striking “and (2)” and inserting “(2)”;

20 and

21 (2) by striking the period and inserting “, and

22 (3) during the period beginning on October 1, 1997,

23 and ending on September 30, 2000, the Federal medi-

24 cal assistance percentage for the District of Columbia

25 shall be 60 per centum, and the Federal medical as-

1        *sistance percentage for Alaska shall be 59.8 per cen-*  
 2        *tum (but only, in the case of such States, with respect*  
 3        *to expenditures under a State plan under this title).”.*

4        **SEC. 5762. INCREASE IN PAYMENT CAPS FOR TERRITORIES.**

5        *Section 1108 (42 U.S.C. 1308) is amended—*

6                *(1) in subsection (f), by striking “The” and in-*  
 7                *serting “Subject to subsection (g), the”; and*

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

9                *“(g) MEDICAID PAYMENTS TO TERRITORIES FOR FIS-*  
 10        *CAL YEAR 1998 AND THEREAFTER.—*

11                *“(1) FISCAL YEAR 1998.—With respect to fiscal*  
 12                *year 1998, the amounts otherwise determined for*  
 13                *Puerto Rico, the Virgin Islands, Guam, the Northern*  
 14                *Mariana Islands, and American Samoa under sub-*  
 15                *section (f) for such fiscal year shall be increased in*  
 16                *the following manner:*

17                        *“(A) For Puerto Rico, \$30,000,000.*

18                        *“(B) For the Virgin Islands, \$750,000.*

19                        *“(C) For Guam, \$750,000.*

20                        *“(D) For the Northern Mariana Islands,*  
 21                        *\$500,000.*

22                        *“(E) For American Samoa, \$500,000.*

23                *“(2) FISCAL YEAR 1999 AND THEREAFTER.—Not-*  
 24                *withstanding subsection (f), with respect to fiscal year*  
 25                *1999 and any fiscal year thereafter, the total amount*

1       *certified by the Secretary under title XIX for pay-*  
2       *ment to—*

3               “(A) *Puerto Rico shall not exceed the sum*  
4               *of the amount provided in this subsection for the*  
5               *preceding fiscal year increased by the percentage*  
6               *increase in the medical care component of the*  
7               *consumer price index for all urban consumers*  
8               *(as published by the Bureau of Labor Statistics)*  
9               *for the twelve-month period ending in March*  
10              *preceding the beginning of the fiscal year, round-*  
11              *ed to the nearest \$100,000;*

12              “(B) *the Virgin Islands shall not exceed the*  
13              *sum of the amount provided in this subsection*  
14              *for the preceding fiscal year increased by the*  
15              *percentage increase referred to in subparagraph*  
16              *(A), rounded to the nearest \$10,000;*

17              “(C) *Guam shall not exceed the sum of the*  
18              *amount provided in this subsection for the pre-*  
19              *ceding fiscal year increased by the percentage in-*  
20              *crease referred to in subparagraph (A), rounded*  
21              *to the nearest \$10,000;*

22              “(D) *Northern Mariana Islands shall not*  
23              *exceed the sum of the amount provided in this*  
24              *subsection for the preceding fiscal year increased*  
25              *by the percentage increase referred to in sub-*

1 paragraph (A), rounded to the nearest \$10,000;  
2 and

3 “(E) American Samoa shall not exceed the  
4 sum of the amount provided in this subsection  
5 for the preceding fiscal year increased by the  
6 percentage increase referred to in subparagraph  
7 (A), rounded to the nearest \$10,000.”.

8 **SEC. 5763. COMMUNITY-BASED MENTAL HEALTH SERVICES.**

9 (a) *IN GENERAL.*—Section 1905(a) (42 U.S.C.  
10 1396d(a)), as amended by section 5741(a)(1), is amended—

11 (1) by striking “and” at the end of paragraph  
12 (26);

13 (2) by redesignating paragraph (27) as para-  
14 graph (28); and

15 (3) by inserting after paragraph (26) the follow-  
16 ing new paragraph:

17 “(27) outpatient and intensive community-based  
18 mental health services, including psychiatric rehabili-  
19 tation, day treatment, intensive in-home services for  
20 children, assertive community treatment, therapeutic  
21 out-of-home placements (excluding room and board),  
22 clinic services, partial hospitalization, and targeted  
23 case management; and”.

24 (b) *CONFORMING AMENDMENTS.*—



1           “(A) have not attained age 65;

2           “(B) have been diagnosed with breast cancer  
3 through participation in the program to screen  
4 women for breast and cervical cancer conducted by  
5 the Director of the Centers for Disease Control and  
6 Prevention under title 15 of the Public Health Service  
7 Act (42 U.S.C. 300k et seq.);

8           “(C) satisfy the income and resource eligibility  
9 criteria established by such Director for participation  
10 in such program; and

11           “(D) are not otherwise eligible for medical assist-  
12 ance under the State plan under this title.

13           “(2) For purposes of subsection (a)(10), the term  
14 “breast cancer-related services” means each of the following  
15 services relating to treatment of breast cancer:

16           “(A) Prescribed drugs.

17           “(B) Physicians’ services and services described  
18 in section 1905(a)(2).

19           “(C) Laboratory and X-ray services (including  
20 services to confirm the presence of breast cancer).

21           “(D) Rural health clinic services and Federally-  
22 qualified health center services.

23           “(E) Case management services (as defined in  
24 section 1915(g)(2)).

1           “(F) *Services (other than room and board) de-*  
2           *signed to encourage completion of regimens of pre-*  
3           *scribed drugs by outpatients, including services to ob-*  
4           *serve directly the intake of prescribed drugs.”.*

5           (c) *LIMITATION ON BENEFITS.*—*Section 1902(a)(10)*  
6           *(42 U.S.C. 1396a(a)(10)) is amended in the matter follow-*  
7           *ing subparagraph (F)—*

8                     (1) *by striking “, and (XIII)”;* and

9                     (2) *by inserting before the semicolon at the end*  
10            *the following: “, and (XIV) the medical assistance*  
11            *made available to an individual described in sub-*  
12            *section (aa)(1) who is eligible for medical assistance*  
13            *only because of subparagraph (A)(ii)(XIII) shall be*  
14            *limited to medical assistance for breast cancer-related*  
15            *services (described in subsection (aa)(2))”.*

16           (d) *CONFORMING AMENDMENTS.*—

17                     (1) *Section 1905(a) (42 U.S.C. 1396d(a)) is*  
18            *amended—*

19                             (A) *in clause (x), by striking “or” at the*  
20                     *end;*

21                             (B) *in clause (xi), by adding “or” at the*  
22                     *end;*

23                             (C) *by inserting after clause (xi) the follow-*  
24                     *ing:*

1           “(xii) individuals described in section  
2           1902(aa)(1),”; and

3           (D) by striking paragraph (19) and insert-  
4           ing the following:

5           “(19) case management services (as defined in  
6           section 1915(g)(2)), TB-related services described in  
7           section 1902(z)(2)(F), and breast cancer-related serv-  
8           ices described in section 1902(z)(2)(F);”.

9           (2) Section 1915(g)(1) (42 U.S.C. 1396n(g)(1))  
10          is amended by inserting “or section 1902(aa)(1)”  
11          after “section 1902(z)(1)(A)”.

12          (e) *EFFECTIVE DATE.*—The amendments made by this  
13          section apply to medical assistance furnished on or after  
14          October 1, 1997, without regard to whether or not final reg-  
15          ulations to carry out such amendments have been promul-  
16          gated by such date.

17          **SEC. 5765. TREATMENT OF STATE TAXES IMPOSED ON CER-**  
18          **TAIN HOSPITALS THAT PROVIDE FREE CARE.**

19          (a) *EXCEPTION FROM TAX DOES NOT DISQUALIFY AS*  
20          *BROAD-BASED TAX.*—Section 1903(w)(3) (42 U.S.C.  
21          1396b(w)(3)) is amended—

22                 (1) in subparagraph (B), by striking “and (E)”  
23                 and inserting “(E), and (F)”; and

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

1       “(F) *In no case shall a tax not qualify as a broad-*  
2 *based health care related tax under this paragraph because*  
3 *it does not apply to a hospital that is described in section*  
4 *501(c)(3) of the Internal Revenue Code of 1986 and exempt*  
5 *from taxation under section 501(a) of such Code and that*  
6 *does not accept payment under the State plan under this*  
7 *title or under title XVIII.*”.

8       (b) *REDUCTION IN FEDERAL FINANCIAL PARTICIPA-*  
9 *TION IN CASE OF IMPOSITION OF TAX.*—Section 1903(b)  
10 *(42 U.S.C. 1396b(b)) is amended by adding at the end the*  
11 *following:*

12       “(4) *Notwithstanding the preceding provisions of this*  
13 *section, the amount determined under subsection (a)(1) for*  
14 *any State shall be decreased in a quarter by the amount*  
15 *of any health care related taxes (described in section*  
16 *1902(w)(3)(A)) that are imposed on a hospital described in*  
17 *subsection (w)(3)(F) in that quarter.*”.

18       (c) *EFFECTIVE DATE.*—*The amendments made by sub-*  
19 *section (a) shall apply to taxes imposed before, on, or after*  
20 *the date of the enactment of this Act and the amendment*  
21 *made by subsection (b) shall apply to taxes imposed on or*  
22 *after such date.*

1 **SEC. 5766. TREATMENT OF VETERANS PENSIONS UNDER**  
2 **MEDICAID.**

3 (a) *POST-ELIGIBILITY.*—Section 1902(r)(1) of the So-  
4 cial Security Act (42 U.S.C. 1396a(r)(1)) is amended to  
5 read as follows:

6 “(r)(1) For purposes of sections 1902(a)(17) and  
7 1924(d)(1)(D) and for purposes of a waiver under section  
8 1915, with respect to the post-eligibility treatment of income  
9 of individuals who are institutionalized or receiving home  
10 or community-based services under such a waiver—

11 “(A) there shall be disregarded reparation pay-  
12 ments made by the Federal Republic of Germany;

13 “(B) there shall be taken into account amounts  
14 for incurred expenses for medical or remedial care  
15 that are not subject to payment by a third party, in-  
16 cluding—

17 “(i) medicare and other health insurance  
18 premiums, deductibles, or coinsurance, and

19 “(ii) necessary medical or remedial care  
20 recognized under State law but not covered  
21 under the State plan under this title, subject to  
22 reasonable limits the State may establish on the  
23 amount of these expenses; and

24 “(C) in the case of a resident in a State veterans  
25 home, there shall be taken into account, as income,  
26 any and all payments received under a Department

1 of Veterans Affairs pension or compensation program,  
2 including payments attributable to the recipient's  
3 medical expenses or to the recipient's need for aid and  
4 attendance, but excluding that part of any augmented  
5 benefit attributable to a dependent.

6 For purposes of subparagraph (C), any Department of Vet-  
7 erans Affairs pension benefit that has been limited to \$90  
8 per month pursuant to section 5503(f) of title 38, United  
9 States Code, may be applied to meet the monthly personal  
10 needs allowance provided by the State plan under this title,  
11 but shall not otherwise be used to reduce the amount paid  
12 to a facility under the State plan.”.

13 (b) *EFFECTIVE DATE.*—The amendment made by sub-  
14 section (a) shall be effective with respect to periods begin-  
15 ning on and after July 1, 1994.

16 **SEC. 5767. REMOVAL OF NAME FROM NURSE AIDE REG-**  
17 **ISTRY.**

18 (a) *MEDICARE.*—Section 1819(g)(1)(C) of the Social  
19 Security Act (42 U.S.C. 1395i-3(g)(1)(C)) is amended—

20 (1) in the first sentence by striking “The State”  
21 and inserting “(i) The State”; and

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

23 “(i)(I) In the case of a finding of neglect,  
24 the State shall establish a procedure to permit a  
25 nurse aide to petition the State to have his or

1            *her name removed from the registry upon a de-*  
2            *termination by the State that—*

3                    *“(aa) the employment and personal*  
4                    *history of the nurse aide does not reflect a*  
5                    *pattern of abusive behavior or neglect; and*

6                    *“(bb) the neglect involved in the origi-*  
7                    *nal finding was a singular occurrence.*

8                    *“(II) In no case shall a determination on a*  
9                    *petition submitted under clause (I) be made*  
10                   *prior to the expiration of the 1-year period be-*  
11                   *ginning on the date on which the name of the pe-*  
12                   *titioner was added to the registry under this sub-*  
13                   *paragraph.”.*

14            *(b) MEDICAID.—Section 1919(g)(1)(C) of the Social*  
15            *Security Act (42 U.S.C. 1396r(g)(1)(C)) is amended—*

16                    *(1) in the first sentence by striking “The State”*  
17                    *and inserting “(i) The State”; and*

18                    *(2) by adding at the end the following:*

19                    *“(ii)(I) In the case of a finding of neglect,*  
20                    *the State shall establish a procedure to permit a*  
21                    *nurse aide to petition the State to have his or*  
22                    *her name removed from the registry upon a de-*  
23                    *termination by the State that—*

1           “(aa) the employment and personal  
2           history of the nurse aide does not reflect a  
3           pattern of abusive behavior or neglect; and

4           “(bb) the neglect involved in the origi-  
5           nal finding was a singular occurrence.

6           “(II) In no case shall a determination on a  
7           petition submitted under clause (I) be made  
8           prior to the expiration of the 1-year period be-  
9           ginning on the date on which the name of the pe-  
10          titioner was added to the registry under this sub-  
11          paragraph.”.

12          (c) *RETROACTIVE REVIEW.*—The procedures developed  
13          by a State under the amendments made by subsection (a)  
14          and (b) shall permit an individual to petition for a review  
15          of any finding made by a State under section 1819(g)(1)(C)  
16          or 1919(g)(1)(C) of the Social Security Act (42 U.S.C.  
17          1395i-3(g)(1)(C) or 1396r(g)(1)(C)) after January 1, 1995.

18          (d) *STUDY AND REPORT.*—

19                  (1) *STUDY.*—The Secretary of Health and  
20          Human Services shall conduct a study of—

21                          (A) the use of nurse aide registries by  
22                          States, including the number of nurse aides  
23                          placed on the registries on a yearly basis and the  
24                          circumstances that warranted their placement on  
25                          the registries;



1 *were collected by the State of New York from a health care*  
2 *provider before June 1, 1997, and for which a waiver of*  
3 *the provisions of subparagraph (B) or (C) of section*  
4 *1903(w)(3) of such Act has been applied for, or that would,*  
5 *but for this paragraph require that such a waiver be ap-*  
6 *plied for, in accordance with subparagraph (E) of such sec-*  
7 *tion, and, (if so applied for) upon which action by the Sec-*  
8 *retary of Health and Human Services (including any judi-*  
9 *cial review of any such proceeding) has not been completed*  
10 *as of the date of enactment of this Act, are deemed to be*  
11 *permissible health care related taxes and in compliance*  
12 *with the requirements of subparagraphs (B) and (C) of sec-*  
13 *tions 1903(w)(3) of such Act.*

14 **SEC. 5769. CONTINUATION OF STATE-WIDE SECTION 1115**

15 **MEDICAID WAIVERS.**

16 (a) *IN GENERAL.*—*Section 1115 of the Social Security*  
17 *Act (42 U.S.C. 1315) is amended by adding at the end the*  
18 *following:*

19 “(d)(1) *The provisions of this subsection shall apply*  
20 *to the extension of statewide comprehensive research and*  
21 *demonstration projects (in this subsection referred to as*  
22 *‘waiver project’) for which waivers of compliance with the*  
23 *requirements of title XIX are granted under subsection (a).*  
24 *With respect to a waiver project that, but for the enactment*  
25 *of this subsection, would expire, the State at its option may*

1 *not later than 1 year before the waiver under subsection*  
2 *(a) would expire (acting through the chief executive officer*  
3 *of the State who is operating the project), submit to the*  
4 *Secretary a written request for an extension of such waiver*  
5 *project for up to 2 years.*

6       “(2) *The requirements of this paragraph are that the*  
7 *waiver project—*

8               “(A) *has been successfully operated for 5 or more*  
9 *years; and*

10               “(B) *has been shown, through independent eval-*  
11 *uations sponsored by the Health Care Financing Ad-*  
12 *ministration, to successfully contain costs and provide*  
13 *access to health care.*

14       “(3)(A) *In the case of waiver projects described in*  
15 *paragraph (1)(A), if the Secretary fails to respond to the*  
16 *request within 6 months after the date on which the request*  
17 *was submitted, the request is deemed to have been granted.*

18               “(B) *If the request is granted or deemed to have been*  
19 *granted, the deadline for submittal of a final report shall*  
20 *be 1 year after the date on which the waiver project would*  
21 *have expired but for the enactment of this subsection.*

22               “(C) *The Secretary shall release an evaluation of each*  
23 *such project not later than 1 year after the date of receipt*  
24 *of the final report.*

1       “(D) Phase-down provisions which were applicable to  
2 waiver projects before an extension was provided under this  
3 subsection shall not apply.

4       “(4) The extension of a waiver project under this sub-  
5 section shall be on the same terms and conditions (including  
6 applicable terms and conditions related to quality and ac-  
7 cess of services, budget neutrality as adjusted for inflation,  
8 data and reporting requirements and special population  
9 protections), except for any phase down provisions, and  
10 subject to the same set of waivers that applied to the project  
11 or were granted before the extension of the project under  
12 this subsection. The permanent continuation of a waiver  
13 project shall be on the same terms and conditions, including  
14 financing, and subject to the same set of waivers. No test  
15 of budget neutrality shall be applied in the case of projects  
16 described in paragraph (2) after that date on which the per-  
17 manent extension was granted.

18       “(5) In the case of a waiver project described in para-  
19 graph (2), the Secretary, acting through the Health Care  
20 Financing Administration shall, deem any State’s request  
21 to expand medicaid coverage in whole or in part to individ-  
22 uals who have an income at or below the Federal poverty  
23 level as budget neutral if independent evaluations sponsored  
24 by the Health Care Financing Administration have shown  
25 that the State’s medicaid managed care program under

1 *such original waiver is more cost effective and efficient than*  
2 *the traditional fee-for-service medicaid program that, in the*  
3 *absence of any managed care waivers under this section,*  
4 *would have been provided in the State.”.*

5 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
6 *section (a) shall become effective on the date of enactment*  
7 *of this Act.*

8 **SEC. 5770. EFFECTIVE DATE.**

9 (a) *IN GENERAL.*—*Except as otherwise specifically*  
10 *provided, the provisions of and amendments made by this*  
11 *subtitle shall apply with respect to State programs under*  
12 *title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)*  
13 *on and after October 1, 1997.*

14 (b) *EXTENSION FOR STATE LAW AMENDMENT.*—*In the*  
15 *case of a State plan under title XIX of the Social Security*  
16 *Act which the Secretary of Health and Human Services de-*  
17 *termines requires State legislation in order for the plan to*  
18 *meet the additional requirements imposed by the amend-*  
19 *ments made by this subtitle, the State plan shall not be*  
20 *regarded as failing to comply with the requirements of this*  
21 *subtitle solely on the basis of its failure to meet these addi-*  
22 *tional requirements before the first day of the first calendar*  
23 *quarter beginning after the close of the first regular session*  
24 *of the State legislature that begins after the date of the en-*  
25 *actment of this Act. For purposes of the previous sentence,*

1 *in the case of a State that has a 2-year legislative session,*  
 2 *each year of the session is considered to be a separate regu-*  
 3 *lar session of the State legislature.*

4           ***Subtitle J—Children’s Health***  
 5                   ***Insurance Initiatives***

6 **SEC. 5801. ESTABLISHMENT OF CHILDREN’S HEALTH IN-**  
 7                   **SURANCE INITIATIVES.**

8           (a) *IN GENERAL.*—*The Social Security Act is amend-*  
 9 *ed by adding at the end the following:*

10           ***“TITLE XXI—CHILD HEALTH INSURANCE***  
 11                                   ***INITIATIVES***

12 ***“SEC. 2101. PURPOSE.***

13           *“The purpose of this title is to provide funds to States*  
 14 *to enable such States to expand the provision of health in-*  
 15 *surance coverage for low-income children. Funds provided*  
 16 *under this title shall be used to achieve this purpose through*  
 17 *outreach activities described in section 2106(a) and, at the*  
 18 *option of the State through—*

19                   *“(1) a grant program conducted in accordance*  
 20 *with section 2107 and the other requirements of this*  
 21 *title; or*

22                   *“(2) expansion of coverage of such children*  
 23 *under the State medicaid program who are not re-*  
 24 *quired to be provided medical assistance under section*

1       1902(l) (taking into account the process of individ-  
2       uals aging into eligibility under subsection (l)(1)(D)).

3       **“SEC. 2102. DEFINITIONS.**

4       *“In this title:*

5               *“(1) BASE-YEAR COVERED LOW-INCOME CHILD*  
6       *POPULATION.—The term ‘base-year covered low-in-*  
7       *come child population’ means the total number of*  
8       *low-income children with respect to whom, as of fiscal*  
9       *year 1996, an eligible State provides or pays the cost*  
10       *of health benefits either through a State funded pro-*  
11       *gram or through expanded eligibility under the State*  
12       *plan under title XIX (including under a waiver of*  
13       *such plan), as determined by the Secretary. Such*  
14       *term does not include any low-income child described*  
15       *in paragraph (3)(A) that a State must cover in order*  
16       *to be considered an eligible State under this title.*

17               *“(2) CHILD.—The term ‘child’ means an indi-*  
18       *vidual under 19 years of age.*

19               *“(3) ELIGIBLE STATE.—The term ‘eligible State’*  
20       *means, with respect to a fiscal year, a State that—*

21                       *“(A) provides, under section 1902(l)(1)(D)*  
22       *or under a waiver, for eligibility for medical as-*  
23       *sistance under a State plan under title XIX of*  
24       *individuals under 17 years of age in fiscal year*

1           1998, and under 19 years of age in fiscal year  
2           2000, regardless of date of birth;

3           “(B) has submitted to the Secretary under  
4           section 2104 a program outline that—

5                   “(i) sets forth how the State intends to  
6                   use the funds provided under this title to  
7                   provide health insurance coverage for low-  
8                   income children consistent with the provi-  
9                   sions of this title; and

10                   “(ii) is approved under section 2104;  
11                   and

12                   “(iii) otherwise satisfies the require-  
13                   ments of this title; and

14           “(C) satisfies the maintenance of effort re-  
15           quirement described in section 2105(c)(5).

16           “(4) *FEDERAL MEDICAL ASSISTANCE PERCENT-*  
17           *AGE.—The term ‘Federal medical assistance percent-*  
18           *age’ means, with respect to a State, the meaning*  
19           *given that term under section 1905(b). Any cost-shar-*  
20           *ing imposed under this title may not be included in*  
21           *determining Federal medical assistance percentage for*  
22           *reimbursement of expenditures under a State program*  
23           *funded under this title.*

24           “(5) *FEHBP-EQUIVALENT CHILDREN’S HEALTH*  
25           *INSURANCE COVERAGE.—The term ‘FEHBP-equiva-*

1        *lent children’s health insurance coverage’ means, with*  
2        *respect to a State, any plan or arrangement that pro-*  
3        *vides, or pays the cost of, health benefits that the Sec-*  
4        *retary has certified are equivalent to or better than*  
5        *the services covered for a child, including hearing and*  
6        *vision services, under the standard Blue Cross/Blue*  
7        *Shield preferred provider option service benefit plan*  
8        *offered under chapter 89 of title 5, United States*  
9        *Code.*

10        “(6) *INDIANS.*—*The term ‘Indians’ has the*  
11        *meaning given that term in section 4(c) of the Indian*  
12        *Health Care Improvement Act (25 U.S.C. 1601 et*  
13        *seq.).*

14        “(7) *LOW-INCOME CHILD.*—*The term ‘low-income*  
15        *child’ means a child in a family whose income is*  
16        *below 200 percent of the poverty line for a family of*  
17        *the size involved.*

18        “(8) *POVERTY LINE.*—*The term ‘poverty line’*  
19        *has the meaning given that term in section 673(2) of*  
20        *the Community Services Block Grant Act (42 U.S.C.*  
21        *9902(2)), including any revision required by such sec-*  
22        *tion.*

23        “(9) *SECRETARY.*—*The term ‘Secretary’ means*  
24        *the Secretary of Health and Human Services.*

1           “(10) *STATE*.—The term ‘State’ means each of  
2           the 50 States, the District of Columbia, Puerto Rico,  
3           Guam, the Virgin Islands, American Samoa, and the  
4           Northern Mariana Islands.

5           “(11) *STATE CHILDREN’S HEALTH EXPENDI-*  
6           *TURES*.—The term ‘State children’s health expendi-

7           *tures’* means the State share of expenditures by the  
8           State for providing children with health care items  
9           and services under—

10           “(A) the State plan for medical assistance  
11           under title XIX;

12           “(B) the maternal and child health services  
13           block grant program under title V;

14           “(C) the preventive health services block  
15           grant program under part A of title XIX of the  
16           Public Health Services Act (42 U.S.C. 300w et  
17           seq.);

18           “(D) State-funded programs that are de-  
19           signed to provide health care items and services  
20           to children;

21           “(E) school-based health services programs;

22           “(F) State programs that provide uncom-  
23           pensated or indigent health care;

24           “(G) county-indigent care programs for  
25           which the State requires a matching share by a

1           *county government or for which there are inter-*  
2           *governmental transfers from a county to State*  
3           *government; and*

4           “(H) *any other program under which the*  
5           *Secretary determines the State incurs uncompen-*  
6           *sated expenditures for providing children with*  
7           *health care items and services.*

8           “(12) *STATE MEDICAID PROGRAM.—The term*  
9           *‘State medicaid program’ means the program of med-*  
10          *ical assistance provided under title XIX.*

11 **“SEC. 2103. APPROPRIATION.**

12          “(a) *APPROPRIATION.—*

13           “(1) *IN GENERAL.—Subject to subsection (b), out*  
14          *of any money in the Treasury of the United States*  
15          *not otherwise appropriated, there is appropriated for*  
16          *the purpose of carrying out this title—*

17           “(A) *for fiscal year 1998, \$2,500,000,000;*

18           “(B) *for each of fiscal years 1999 and 2000,*  
19          *\$3,200,000,000;*

20           “(C) *for fiscal year 2001, \$3,600,000,000;*

21           “(D) *for fiscal year 2002, \$3,500,000,000;*

22           “(E) *for each of fiscal years 2003 through*  
23          *2007, \$4,580,000,000.*

1           “(2) *AVAILABILITY.*—*Funds appropriated under*  
2           *this section shall remain available without fiscal year*  
3           *limitation, as provided under section 2105(b)(4).*

4           “(b) *REDUCTION FOR INCREASED MEDICAID EXPENDI-*  
5           *TURES.*—*With respect to each of the fiscal years described*  
6           *in subsection (a)(1), the amount appropriated under sub-*  
7           *section (a)(1) for each such fiscal year shall be reduced by*  
8           *an amount equal to the amount of the total Federal outlays*  
9           *under the medicaid program under title XIX resulting*  
10          *from—*

11           “(1) *the amendment made by section 5732 of the*  
12           *Balanced Budget Act of 1997 (regarding the State op-*  
13           *tion to provide 12-month continuous eligibility for*  
14           *children);*

15           “(2) *increased enrollment under State plans ap-*  
16           *proved under such program as a result of outreach ac-*  
17           *tivities under section 2106(a); and*

18           “(3) *the requirement under section 2102(3)A) to*  
19           *provide eligibility for medical assistance under the*  
20           *State plan under title XIX for all children under 19*  
21           *years of age who have families with income that is at*  
22           *or below the poverty line.*

23           “(c) *STATE ENTITLEMENT.*—*This title constitutes*  
24           *budget authority in advance of appropriations Acts and*  
25           *represents the obligation of the Federal Government to pro-*

1 *vide for the payment to States of amounts provided in ac-*  
2 *cordance with the provisions of this title.*

3 “(d) *EFFECTIVE DATE.*—No State is eligible for pay-  
4 *ments under section 2105 for any calendar quarter begin-*  
5 *ning before October 1, 1997.*

6 **“SEC. 2104. PROGRAM OUTLINE.**

7 “(a) *GENERAL DESCRIPTION.*—A State shall submit to  
8 *the Secretary for approval a program outline, consistent*  
9 *with the requirements of this title, that—*

10 “(1) *identifies, on or after the date of enactment*  
11 *of the Balanced Budget Act of 1997, which of the 2*  
12 *options described in section 2101 the State intends to*  
13 *use to provide low-income children in the State with*  
14 *health insurance coverage;*

15 “(2) *describes the manner in which such coverage*  
16 *shall be provided; and*

17 “(3) *provides such other information as the Sec-*  
18 *retary may require.*

19 “(b) *OTHER REQUIREMENTS.*—The program outline  
20 *submitted under this section shall include the following:*

21 “(1) *ELIGIBILITY STANDARDS AND METHODOLO-*  
22 *GIES.*—A summary of the standards and methodolo-  
23 *gies used to determine the eligibility of low-income*  
24 *children for health insurance coverage under a State*  
25 *program funded under this title.*

1           “(2) *ELIGIBILITY SCREENING; COORDINATION*  
2           *WITH OTHER HEALTH COVERAGE.*—A description of  
3           *the procedures to be used to ensure—*

4                   “(A) *through both intake and followup*  
5                   *screening, that only low-income children are fur-*  
6                   *nished health insurance coverage through funds*  
7                   *provided under this title; and*

8                   “(B) *that any health insurance coverage*  
9                   *provided for children through funds under this*  
10                   *title does not reduce the number of children who*  
11                   *are provided such coverage through any other*  
12                   *publicly or privately funded health plan.*

13           “(3) *INDIANS.*—A description of how the State  
14           *will ensure that Indians are served through a State*  
15           *program funded under this title.*

16           “(c) *DEADLINE FOR SUBMISSION.*—A State program  
17           *outline shall be submitted to the Secretary by not later than*  
18           *March 31 of any fiscal year (October 1, 1997, in the case*  
19           *of fiscal year 1998).*

20           **“SEC. 2105. DISTRIBUTION OF FUNDS.**

21           “(a) *ESTABLISHMENT OF FUNDING POOLS.*—

22                   “(1) *IN GENERAL.*—From the amount appro-  
23                   *priated under section 2103(a)(1) for each fiscal year,*  
24                   *determined after the reduction required under section*  
25                   *2103(b), the Secretary shall, for purposes of fiscal*

1       year 1998, reserve 85 percent of such amount for dis-  
2       tribution to eligible States through the basic allotment  
3       pool under subsection (b) and 15 percent of such  
4       amount for distribution through the new coverage in-  
5       centive pool under subsection (c)(2)(B)(i).

6               “(2) ANNUAL ADJUSTMENT OF RESERVE PER-  
7       CENTAGES.—The Secretary shall annually adjust the  
8       amount of the percentages described in paragraph (1)  
9       in order to provide sufficient basic allotments and  
10       sufficient new coverage incentives to achieve the pur-  
11       pose of this title.

12               “(b) DISTRIBUTION OF FUNDS UNDER THE BASIC AL-  
13       LOTMENT POOL.—

14               “(1) STATES.—

15                       “(A) IN GENERAL.—From the total amount  
16       reserved under subsection (a) for a fiscal year for  
17       distribution through the basic allotment pool, the  
18       Secretary shall first set aside 0.25 percent for  
19       distribution under paragraph (2) and shall allot  
20       from the amount remaining to each eligible State  
21       not described in such paragraph the State’s allot-  
22       ment percentage for such fiscal year.

23                       “(B) STATE’S ALLOTMENT PERCENTAGE.—

24                               “(i) IN GENERAL.—For purposes of  
25       subparagraph (A), the allotment percentage

1           *for a fiscal year for each State is the per-*  
2           *centage equal to the ratio of the number of*  
3           *low-income children in the base period in*  
4           *the State to the total number of low-income*  
5           *children in the base period in all States not*  
6           *described in paragraph (2).*

7           “(i) *NUMBER OF LOW-INCOME CHIL-*  
8           *DREN IN THE BASE PERIOD.—In clause (i),*  
9           *the number of low-income children in the*  
10          *base period for a fiscal year in a State is*  
11          *equal to the average of the number of low-*  
12          *income children in the State for the period*  
13          *beginning on October 1, 1992, and ending*  
14          *on September 30, 1995, as reported in the*  
15          *March 1994, March 1995, and March 1996*  
16          *supplements to the Current Population Sur-*  
17          *vey of the Bureau of the Census.*

18          “(2) *OTHER STATES.—*

19                 “(A) *IN GENERAL.—From the amount set*  
20                 *aside under paragraph (1)(A) for each fiscal*  
21                 *year, the Secretary shall make allotments for*  
22                 *such fiscal year in accordance with the percent-*  
23                 *ages specified in subparagraph (B) to Puerto*  
24                 *Rico, Guam, the Virgin Islands, American*  
25                 *Samoa, and the Northern Mariana Islands, if*

1           *such States are eligible States for such fiscal*  
2           *year.*

3           “(B) *PERCENTAGES SPECIFIED.—The per-*  
4           *centages specified in this subparagraph are in*  
5           *the case of—*

6                     “(i) *Puerto Rico, 91.6 percent;*

7                     “(ii) *Guam, 3.5 percent;*

8                     “(iii) *the Virgin Islands, 2.6 percent;*

9                     “(iv) *American Samoa, 1.2 percent;*

10                    *and*

11                     “(v) *the Northern Mariana Islands, 1.1*  
12                     *percent.*

13           “(3) *THREE-YEAR AVAILABILITY OF AMOUNTS*  
14           *ALLOTTED.—Amounts allotted to a State pursuant to*  
15           *this subsection for a fiscal year shall remain available*  
16           *for expenditure by the State through the end of the*  
17           *second succeeding fiscal year.*

18           “(4) *PROCEDURE FOR DISTRIBUTION OF UNUSED*  
19           *FUNDS.—The Secretary shall determine an appro-*  
20           *priate procedure for distribution of funds to eligible*  
21           *States that remain unused under this subsection after*  
22           *the expiration of the availability of funds required*  
23           *under paragraph (3). Such procedure shall be devel-*  
24           *oped and administered in a manner that is consistent*  
25           *with the purpose of this title.*

1       “(c) *PAYMENTS.*—

2               “(1) *IN GENERAL.*—*The Secretary shall—*

3                       “(A) *before October 1 of any fiscal year,*  
4                       *pay an eligible State an amount equal to 1 per-*  
5                       *cent of the amount allotted to the State under*  
6                       *subsection (b) for conducting the outreach activi-*  
7                       *ties required under section 2106(a); and*

8                       “(B) *make quarterly fiscal year payments*  
9                       *to an eligible State from the amount remaining*  
10                      *of such allotment for such fiscal year in an*  
11                      *amount equal to the Federal medical assistance*  
12                      *percentage for the State (as defined under section*  
13                      *2102(4) and determined without regard to the*  
14                      *amount of Federal funds received by the State*  
15                      *under title XIX before the date of enactment of*  
16                      *this title) of the Federal and State incurred cost*  
17                      *of providing health insurance coverage for a low-*  
18                      *income child in the State plus the applicable*  
19                      *bonus amount.*

20               “(2) *APPLICABLE BONUS.*—

21                       “(A) *IN GENERAL.*—*For purposes of para-*  
22                       *graph (1), the applicable bonus amount is—*

23                               “(i) *5 percent of the Federal and State*  
24                               *incurred cost, with respect to a period, of*  
25                               *providing health insurance coverage for*

1           *children covered at State option among the*  
2           *base-year covered low-income child popu-*  
3           *lation (measured in full year equivalency)*  
4           *(including such children covered by the*  
5           *State through expanded eligibility under the*  
6           *medicaid program under title XIX before*  
7           *the date of enactment of this title, but ex-*  
8           *cluding any low-income child described in*  
9           *section 2102(3)(A) that a State must cover*  
10           *in order to be considered an eligible State*  
11           *under this title); and*

12           “(ii) 10 percent of the Federal and  
13           State incurred cost, with respect to a pe-  
14           riod, of providing health insurance coverage  
15           for children covered at State option among  
16           the number (as so measured) of low-income  
17           children that are in excess of such popu-  
18           lation.

19           “(B) SOURCE OF BONUSES.—

20           “(i) *BASE-YEAR COVERED LOW-INCOME*  
21           *CHILD POPULATION.—A bonus described in*  
22           *subparagraph (A)(i) shall be paid out of an*  
23           *eligible State’s allotment for a fiscal year.*

24           “(ii) *FOR OTHER LOW-INCOME CHILD*  
25           *POPULATIONS.—A bonus described in sub-*

1            *paragraph (A)(ii) shall be paid out of the*  
2            *new coverage incentive pool reserved under*  
3            *subsection (a)(1).*

4            “(3) *DEFINITION OF COST OF PROVIDING*  
5            *HEALTH INSURANCE COVERAGE.—For purposes of this*  
6            *subsection the cost of providing health insurance cov-*  
7            *erage for a low-income child in the State means—*

8            *“(A) in the case of an eligible State that*  
9            *opts to use funds provided under this title*  
10           *through the medicaid program, the cost of pro-*  
11           *viding such child with medical assistance under*  
12           *the State plan under title XIX; and*

13           *“(B) in the case of an eligible State that*  
14           *opts to use funds provided under this title under*  
15           *section 2107, the cost of providing such child*  
16           *with health insurance coverage under such sec-*  
17           *tion.*

18           “(4) *LIMITATION ON TOTAL PAYMENTS.—With*  
19           *respect to a fiscal year, the total amount paid to an*  
20           *eligible State under this title (including any bonus*  
21           *payments) shall not exceed 85 percent of the total cost*  
22           *of a State program conducted under this title for such*  
23           *fiscal year.*

24           “(5) *MAINTENANCE OF EFFORT.—*

1           “(A) *DEEMED COMPLIANCE.*—A State shall  
2           be deemed to be in compliance with this provi-  
3           sion if—

4                   “(i) it does not adopt income and re-  
5                   source standards and methodologies that are  
6                   more restrictive than those applied as of  
7                   June 1, 1997, for purposes of determining a  
8                   child’s eligibility for medical assistance  
9                   under the State plan under title XIX; and

10                   “(ii) in the case of fiscal year 1998  
11                   and each fiscal year thereafter, the State  
12                   children’s health expenditures defined in  
13                   section 2102(11) are not less than the  
14                   amount of such expenditures for fiscal year  
15                   1996.

16           “(B) *FAILURE TO MAINTAIN MEDICAID*  
17           *STANDARDS AND METHODOLOGIES.*—A State  
18           that fails to meet the conditions described in sub-  
19           paragraph (A) shall not receive—

20                   “(i) funds under this title for any child  
21                   that would be determined eligible for medi-  
22                   cal assistance under the State plan under  
23                   title XIX using the income and resource  
24                   standards and methodologies applied under  
25                   such plan as of June 1, 1997; and

1                   “(i) any bonus amounts described in  
2                   paragraph (2)(A)(ii).

3                   “(C) *FAILURE TO MAINTAIN SPENDING ON*  
4                   *CHILD HEALTH PROGRAMS.*—A State that fails  
5                   to meet the condition described in subparagraph  
6                   (A)(ii) shall not receive funding under this title.

7                   “(6) *ADVANCE PAYMENT; RETROSPECTIVE AD-*  
8                   *JUSTMENT.*—The Secretary may make payments  
9                   under this subsection for each quarter on the basis of  
10                  advance estimates of expenditures submitted by the  
11                  State and such other investigation as the Secretary  
12                  may find necessary, and shall reduce or increase the  
13                  payments as necessary to adjust for any overpayment  
14                  or underpayment for prior quarters.

15   **“SEC. 2106. USE OF FUNDS.**

16                  “(a) *SET-ASIDE FOR OUTREACH ACTIVITIES.*—

17                         “(1) *IN GENERAL.*—From the amount allotted to  
18                         a State under section 2105(b) for a fiscal year, each  
19                         State shall conduct outreach activities described in  
20                         paragraph (2).

21                         “(2) *OUTREACH ACTIVITIES DESCRIBED.*—The  
22                         outreach activities described in this paragraph in-  
23                         clude activities to—

1           “(A) identify and enroll children who are  
2           eligible for medical assistance under the State  
3           plan under title XIX; and

4           “(B) conduct public awareness campaigns  
5           to encourage employers to provide health insur-  
6           ance coverage for children.

7           “(b) *STATE OPTIONS FOR REMAINDER.*—A State may  
8           use the amount remaining of the allotment to a State under  
9           section 2105(b) for a fiscal year, determined after the pay-  
10          ment required under section 2105(c)(1)(A), in accordance  
11          with section 2107 or the State medicaid program (but not  
12          both). Nothing in the preceding sentence shall be construed  
13          as limiting a State’s eligibility for receiving the 5 percent  
14          bonus described in section 2105(c)(2)(A)(i) for children cov-  
15          ered by the State through expanded eligibility under the  
16          medicaid program under title XIX before the date of enact-  
17          ment of this title.

18          “(c) *PROHIBITION ON USE OF FUNDS.*—No funds pro-  
19          vided under this title may be used to provide health insur-  
20          ance coverage for—

21                  “(1) families of State public employees; or

22                  “(2) children who are committed to a penal in-  
23          stitution.

24          “(d) *USE LIMITED TO STATE PROGRAM EXPENDI-*  
25          *TURES.*—Funds provided to an eligible State under this

1 *title shall only be used to carry out the purpose of this title*  
2 *(as described in section 2101), and any health insurance*  
3 *coverage provided with such funds may include coverage of*  
4 *abortion only if necessary to save the life of the mother or*  
5 *if the pregnancy is the result of an act of rape or incest.*

6 “(e) *ADMINISTRATIVE EXPENDITURES.*—

7 “(1) *IN GENERAL.*—*Not more than the applicable*  
8 *percentage of the amount allotted to a State under*  
9 *section 2105(b) for a fiscal year, determined after the*  
10 *payment required under section 2105(c)(1)(A), shall*  
11 *be used for administrative expenditures for the pro-*  
12 *gram funded under this title.*

13 “(2) *APPLICABLE PERCENTAGE.*—*For purposes*  
14 *of paragraph (1), the applicable percentage with re-*  
15 *spect to a fiscal year is—*

16 “(A) *for the first 2 years of a State pro-*  
17 *gram funded under this title, 10 percent;*

18 “(B) *for the third year of a State program*  
19 *funded under this title, 7.5 percent; and*

20 “(C) *for the fourth year of a State program*  
21 *funded under this title and each year thereafter,*  
22 *5 percent.*

23 “(f) *NONAPPLICATION OF FIVE-YEAR LIMITED ELIGI-*  
24 *BILITY FOR MEANS-TESTED PUBLIC BENEFITS.*—*The pro-*  
25 *visions of section 403 of the Personal Responsibility and*

1 *Work Opportunity Reconciliation Act of 1996 (8 U.S.C.*  
2 *1613) shall not apply with respect to a State program fund-*  
3 *ed under this title.*

4 “(g) *AUDITS.—The provisions of section 506(b) shall*  
5 *apply to funds expended under this title to the same extent*  
6 *as they apply to title V.*

7 “(h) *REQUIREMENT TO FOLLOW STATE PROGRAM*  
8 *OUTLINE.—The State shall conduct the program in accord-*  
9 *ance with the program outline approved by the Secretary*  
10 *under section 2104.*

11 **“SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVI-**  
12 **SION OF CHILDREN’S HEALTH INSURANCE.**

13 “(a) *STATE OPTION.—*

14 “(1) *IN GENERAL.—An eligible State that opts to*  
15 *use funds provided under this title under this section*  
16 *shall use such funds to provide FEHBP-equivalent*  
17 *children’s health insurance coverage for low-income*  
18 *children who reside in the State.*

19 “(2) *PRIORITY FOR LOW-INCOME CHILDREN.—A*  
20 *State that uses funds provided under this title under*  
21 *this section shall not cover low-income children with*  
22 *higher family income without covering such children*  
23 *with a lower family income.*

24 “(3) *DETERMINATION OF ELIGIBILITY AND FORM*  
25 *OF ASSISTANCE.—An eligible State may establish any*

1       *additional eligibility criteria for the provision of*  
2       *health insurance coverage for a low-income child*  
3       *through funds provided under this title, so long as*  
4       *such criteria and assistance are consistent with the*  
5       *purpose and provisions of this title.*

6               “(4) *AFFORDABILITY.*—*An eligible State may*  
7       *impose any family premium obligations or cost-shar-*  
8       *ing requirements otherwise permitted under this title*  
9       *on low-income children with family incomes that ex-*  
10       *ceed 150 percent of the poverty line. In the case of a*  
11       *low-income child whose family income is at or below*  
12       *150 percent of the poverty line, limits on beneficiary*  
13       *costs generally applicable under title XIX apply to*  
14       *coverage provided such children under this section.*

15              “(b) *NONENTITLEMENT.*—*Nothing in this section shall*  
16       *be construed as providing an entitlement for an individual*  
17       *or person to any health insurance coverage, assistance, or*  
18       *service provided through a State program funded under this*  
19       *title. If, with respect to a fiscal year, an eligible State deter-*  
20       *mines that the funds provided under this title are not suffi-*  
21       *cient to provide health insurance coverage for all the low-*  
22       *income children that the State proposes to cover in the State*  
23       *program outline submitted under section 2104 for such fis-*  
24       *cal year, the State may adjust the applicable eligibility cri-*  
25       *teria for such children appropriately or adjust the State*

1 *program in another manner specified by the Secretary, so*  
2 *long as any such adjustments are consistent with the pur-*  
3 *pose of this title.*

4 **“SEC. 2108. PROGRAM INTEGRITY.**

5 *“The following provisions of the Social Security Act*  
6 *shall apply to eligible States under this title in the same*  
7 *manner as such provisions apply to a State under title*  
8 *XIX:*

9 *“(1) Section 1116 (relating to administrative*  
10 *and judicial review).*

11 *“(2) Section 1124 (relating to disclosure of own-*  
12 *ership and related information).*

13 *“(3) Section 1126 (relating to disclosure of infor-*  
14 *mation about certain convicted individuals).*

15 *“(4) Section 1128 (relating to exclusion from in-*  
16 *dividuals and entities from participation in State*  
17 *health care plans).*

18 *“(5) Section 1128A (relating to civil monetary*  
19 *penalties).*

20 *“(6) Section 1128B (relating to criminal pen-*  
21 *alties).*

22 *“(7) Section 1132 (relating to periods within*  
23 *which claims must be filed).*

24 *“(8) Section 1902(a)(4)(C) (relating to conflict*  
25 *of interest standards).*

1           “(9) Section 1903(i) (relating to limitations on  
2           payment).

3           “(10) Section 1903(m)(5) (as in effect on the day  
4           before the date of enactment of the Balanced Budget  
5           Act of 1997).

6           “(11) Section 1903(w) (relating to limitations on  
7           provider taxes and donations).

8           “(12) Section 1905(a)(B) (relating to the exclu-  
9           sion of care or services for any individual who has  
10          not attained 65 years of age and who is a patient in  
11          an institution for mental diseases from the definition  
12          of medical assistance).

13          “(13) Section 1921 (relating to state licensure  
14          authorities).

15          “(14) Sections 1902(a)(25), 1912(a)(1)(A), and  
16          1903(o) (insofar as such sections relate to third party  
17          liability).

18          “(15) Sections 1948 and 1949 (as added by sec-  
19          tion 5701(a)(2) of the Balanced Budget Act of 1997).

20       **“SEC. 2109. ANNUAL REPORTS.**

21          “(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An  
22          eligible State shall—

23               “(1) assess the operation of the State program  
24               funded under this title in each fiscal year, including

1       *the progress made in providing health insurance cov-*  
2       *erage for low-income children; and*

3               “(2) report to the Secretary, by January 1 fol-  
4       *lowing the end of the fiscal year, on the result of the*  
5       *assessment.*”

6       “(b) *REPORT OF THE SECRETARY.*—*The Secretary*  
7       *shall submit to the appropriate committees of Congress an*  
8       *annual report and evaluation of the State programs funded*  
9       *under this title based on the State assessments and reports*  
10       *submitted under subsection (a). Such report shall include*  
11       *any conclusions and recommendations that the Secretary*  
12       *considers appropriate.*”

13       (b) *CONFORMING AMENDMENT.*—*Section 1128(h) (42*  
14       *U.S.C. 1320a–7(h)) is amended by—*

15               (1) *in paragraph (2), by striking “or” at the*  
16       *end;*

17               (2) *in paragraph (3), by striking the period and*  
18       *inserting “, or”;* and

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

20               “(4) *a program funded under title XXI.*”

21       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
22       *section apply on and after October 1, 1997.*

1 **DIVISION 3—INCOME SECURITY**  
2 **AND OTHER PROVISIONS**  
3 **Subtitle K—Income Security, Wel-**  
4 **fare-to-Work Grant Program,**  
5 **and Other Provisions**

6 **CHAPTER 1—INCOME SECURITY**

7 **SEC. 5811. SSI ELIGIBILITY FOR ALIENS RECEIVING SSI ON**  
8 **AUGUST 22, 1996.**

9 (a) *IN GENERAL.*—Section 402(a)(2) of the Personal  
10 Responsibility and Work Opportunity Reconciliation Act  
11 of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding after  
12 subparagraph (D) the following new subparagraph:

13 “(E) *ALIENS RECEIVING SSI ON AUGUST 22,*  
14 *1996.*—With respect to eligibility for benefits for  
15 the program defined in paragraph (3)(A) (relat-  
16 ing to the supplemental security income pro-  
17 gram), paragraph (1) shall not apply to an alien  
18 who is lawfully residing in any State and who  
19 was receiving such benefits on August 22, 1996.”.

20 (b) *STATUS OF CUBAN AND HAITIAN ENTRANTS.*—For  
21 purposes of section 402(a)(2)(E) of the Personal Respon-  
22 sibility and Work Opportunity Reconciliation Act of 1996  
23 (8 U.S.C. 1612(a)(2)(E)), an alien who is a Cuban and  
24 Haitian entrant, as defined in section 501(e) of the Refugee

1 *Education Assistance Act of 1980, shall be considered a*  
 2 *qualified alien.*

3 (c) *CONFORMING AMENDMENTS.—Section*  
 4 *402(a)(2)(D) of the Personal Responsibility and Work Op-*  
 5 *portunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(D))*  
 6 *is amended—*

7 (1) *by striking clause (i);*

8 (2) *in the subparagraph heading by striking*  
 9 *“BENEFITS” and inserting “FOOD STAMPS”;*

10 (3) *by striking “(i) FOOD STAMPS”; and*

11 (4) *by redesignating subclauses (I), (II), and*  
 12 *(III) as clauses (i), (ii), and (iii).*

13 **SEC. 5812. EXTENSION OF ELIGIBILITY PERIOD FOR REFU-**  
 14 **GEES AND CERTAIN OTHER QUALIFIED**  
 15 **ALIENS FROM 5 TO 7 YEARS FOR SSI AND**  
 16 **MEDICAID.**

17 (a) *SSI.—Section 402(a)(2)(A) of the Personal Re-*  
 18 *sponsibility and Work Opportunity Reconciliation Act of*  
 19 *1996 (8 U.S.C. 1612(a)(2)(A)) is amended to read as fol-*  
 20 *lows:*

21 (A) *TIME-LIMITED EXCEPTION FOR REFU-*  
 22 *GEES AND ASYLEES.—*

23 (i) *SSI.—With respect to the specified*  
 24 *Federal program described in paragraph*

1                   (3)(A) paragraph 1 shall not apply to an  
2                   alien until 7 years after the date—

3                   “(I) an alien is admitted to the  
4                   United States as a refugee under sec-  
5                   tion 207 of the Immigration and Na-  
6                   tionality Act;

7                   “(II) an alien is granted asylum  
8                   under section 208 of such Act; or

9                   “(III) an alien’s deportation is  
10                  withheld under section 243(h) of such  
11                  Act.

12                  “(ii) *FOOD STAMPS*.—With respect to  
13                  the specified Federal program described in  
14                  paragraph (3)(B), paragraph 1 shall not  
15                  apply to an alien until 5 years after the  
16                  date—

17                  “(I) an alien is admitted to the  
18                  United States as a refugee under sec-  
19                  tion 207 of the Immigration and Na-  
20                  tionality Act;

21                  “(II) an alien is granted asylum  
22                  under section 208 of such Act; or

23                  “(III) an alien’s deportation is  
24                  withheld under section 243(h) of such  
25                  Act.”.

1           (b) *MEDICAID*.—Section 402(b)(2)(A) of the Personal  
2 *Responsibility and Work Opportunity Reconciliation Act*  
3 *of 1996 (8 U.S.C. 1612(b)(2)(A)) is amended to read as fol-*  
4 *lows:*

5                           “(A) *TIME-LIMITED EXCEPTION FOR REFU-*  
6                           *GEES AND ASYLEES*.—

7                           “(i) *MEDICAID*.—With respect to the  
8                           *designated Federal program described in*  
9                           *paragraph (3)(C), paragraph 1 shall not*  
10                           *apply to an alien until 7 years after the*  
11                           *date—*

12   “(I) *an alien is admitted to the*  
13   *United States as a refugee under sec-*  
14   *tion 207 of the Immigration and Na-*  
15   *tionality Act;*

16   “(II) *an alien is granted asylum*  
17   *under section 208 of such Act; or*

18   “(III) *an alien’s deportation is*  
19   *withheld under section 243(h) of such*  
20   *Act.*

21   “(ii) *OTHER DESIGNATED FEDERAL*  
22   *PROGRAMS*.—With respect to the *designated*  
23   *Federal programs under paragraph (3)*  
24   *(other than subparagraph (C)), paragraph*



1           (1) by redesignating subparagraph (D) and sub-  
2           paragraph (E); and

3           (2) by inserting after subparagraph (C) the fol-  
4           lowing:

5                       “(D) SSI EXCEPTION FOR CERTAIN INDI-  
6           ANS.—With respect to eligibility for benefits for  
7           the program defined in paragraph (3)(A) (relat-  
8           ing to the supplemental security income pro-  
9           gram), paragraph (1) shall not apply to any in-  
10          dividual—

11                       “(i) who is an American Indian born  
12           in Canada to whom the provisions of sec-  
13           tion 289 of the Immigration and National-  
14           ity Act (8 U.S.C. 1358) apply; or

15                       “(ii) who is a member of an Indian  
16           tribe (as defined in section 4(e) of the In-  
17           dian Self-Determination and Education As-  
18           sistance Act (25 U.S.C. 450b(e)).”.

19          (b) EXCEPTION FROM LIMITATION ON MEDICAID ELI-  
20          GIBILITY.—Section 402(b)(2) of the Personal Responsibility  
21          and Work Opportunity Reconciliation Act of 1996 (8  
22          U.S.C. 1612(b)(2)) is amended—

23           (1) by redesignating subparagraph (D) and sub-  
24           paragraph (E); and

1           (2) *by inserting after subparagraph (C) the fol-*  
2           *lowing:*

3                   “(D) *MEDICAID EXCEPTION FOR CERTAIN*  
4                   *INDIANS.—With respect to eligibility for benefits*  
5                   *for the program defined in paragraph (3)(A) (re-*  
6                   *lating to the medicaid program), paragraph (1)*  
7                   *shall not apply to any individual described in*  
8                   *subsection (a)(2)(D).”.*

9           (c) *SSI AND MEDICAID EXCEPTIONS FROM LIMITA-*  
10           *TION ON ELIGIBILITY OF NEW ENTRANTS.—Section 403(b)*  
11           *of the Personal Responsibility and Work Opportunity Rec-*  
12           *onciliation Act of 1996 (8 U.S.C. 1613(b)) is amended by*  
13           *adding at the end the following:*

14                   “(3) *SSI AND MEDICAID EXCEPTION FOR CER-*  
15                   *TAIN INDIANS.—An individual described in section*  
16                   *402(a)(2)(D), but only with respect to the programs*  
17                   *specified in subsections (a)(3)(A) and (b)(3)(C) of sec-*  
18                   *tion 402.”.*

19           (d) *EFFECTIVE DATE.—*

20                   (1) *SECTION 402.—The amendments made by*  
21                   *subsections (a) and (b) shall take effect as though they*  
22                   *had been included in the enactment of section 402 of*  
23                   *the Personal Responsibility and Work Opportunity*  
24                   *Reconciliation Act of 1996.*

1           (2) *SECTION 403.—The amendment made by*  
2           *subsection (c) shall take effect as though they had been*  
3           *included in the enactment of section 403 of the Per-*  
4           *sonal Responsibility and Work Opportunity Rec-*  
5           *onciliation Act of 1996.*

6 **SEC. 5814. SSI ELIGIBILITY FOR DISABLED LEGAL ALIENS**  
7                                   **IN THE UNITED STATES ON AUGUST 22, 1996.**

8           *Section 402(a)(2) of the Personal Responsibility and*  
9           *Work Opportunity Reconciliation Act of 1996 (8 U.S.C.*  
10          *1612(a)(2)) (as amended by section 5813) is amended by*  
11          *adding at the end the following:*

12                               “(G) *DISABLED ALIENS LAWFULLY RESID-*  
13                               *ING IN THE UNITED STATES ON AUGUST 22,*  
14                               *1996.—With respect to eligibility for benefits for*  
15                               *the program defined in paragraph (3)(A) (relat-*  
16                               *ing to the supplemental security income pro-*  
17                               *gram), paragraph (1) shall not apply to an alien*  
18                               *who—*

19                                       “(i) *is lawfully residing in any State*  
20                                       *on August 22, 1996; and*

21                                       “(ii) *is disabled, as defined in section*  
22                                       *1614(a)(3) of the Social Security Act (42*  
23                                       *U.S.C. 1382c(a)(3)).”.*

1 **SEC. 5815. EXEMPTION FROM RESTRICTION ON SUPPLE-**  
2 **MENTAL SECURITY INCOME PROGRAM PAR-**  
3 **TICIPATION BY CERTAIN RECIPIENTS ELIGI-**  
4 **BLE ON THE BASIS OF VERY OLD APPLICA-**  
5 **TIONS.**

6 *Section 402(a)(2) of the Personal Responsibility and*  
7 *Work Opportunity Reconciliation Act of 1996 (8 U.S.C.*  
8 *1612(a)(2)) (as amended by section 5814) is amended by*  
9 *adding at the end the following:*

10 *“(H) SSI EXCEPTION FOR CERTAIN RECIPI-*  
11 *ENTS ON THE BASIS OF VERY OLD APPLICA-*  
12 *TIONS.—With respect to eligibility for benefits*  
13 *for the program defined in paragraph (3)(A) (re-*  
14 *lating to the supplemental security income pro-*  
15 *gram), paragraph (1) shall not apply to any in-*  
16 *dividual—*

17 *“(i) who is receiving benefits under*  
18 *such program for months after July 1996*  
19 *on the basis of an application filed before*  
20 *January 1, 1979; and*

21 *“(ii) with respect to whom the Com-*  
22 *missioner of Social Security lacks clear and*  
23 *convincing evidence that such individual is*  
24 *an alien ineligible for such benefits as a re-*  
25 *sult of the application of this section.”.*

1 **SEC. 5816. REINSTATEMENT OF ELIGIBILITY FOR BENEFITS.**

2       (a) *FOOD STAMPS.*—*The Personal Responsibility and*  
3 *Work Opportunity Reconciliation Act of 1996 is amended*  
4 *by adding after section 435 the following new section:*

5 **“SEC. 436. DERIVATIVE ELIGIBILITY FOR BENEFITS.**

6       *Notwithstanding any other provision of law, an alien*  
7 *who under the provisions of this title is ineligible for bene-*  
8 *fits under the food stamp program (as defined in section*  
9 *402(a)(3)(A)) shall not be eligible for such benefits because*  
10 *the alien receives benefits under the supplemental security*  
11 *income program (as defined in section 402(a)(3)(B)).”.*

12       (b) *MEDICAID.*—*Section 402(b)(2) of the Personal Re-*  
13 *sponsibility and Work Opportunity Reconciliation Act of*  
14 *1996 (8 U.S.C. 1612(b)(2)) is amended by adding at the*  
15 *end the following:*

16               **“(E) MEDICAID EXCEPTION FOR ALIENS RE-**  
17               **CEIVING SSI.**—*An alien who is receiving benefits*  
18               *under the program defined in subsection*  
19               *(a)(3)(A) (relating to the supplemental security*  
20               *income program) shall be eligible for medical as-*  
21               *sistance under a State plan under title XIX of*  
22               *the Social Security Act (42 U.S.C. 1396 et seq.)*  
23               *under the same terms and conditions that apply*  
24               *to other recipients of benefits under the program*  
25               *defined in such subsection.”.*

1           (c) *CLERICAL AMENDMENT.*—Section 2 of the Personal  
2 *Responsibility and Work Opportunity Reconciliation Act*  
3 *of 1996 is amended by adding after the item related to sec-*  
4 *tion 435 the following:*

“Sec. 436. *Derivative eligibility for benefits.*”.

5 **SEC. 5817. EXEMPTION FOR CHILDREN WHO ARE LEGAL**  
6 **ALIENS FROM 5-YEAR BAN ON MEDICAID ELI-**  
7 **GIBILITY.**

8           Section 403 of the *Personal Responsibility and Work*  
9 *Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613)*  
10 *is amended by adding at the end the following:*

11           “(e) *MEDICAID ELIGIBILITY EXEMPTION FOR CHIL-*  
12 *DREN.*—The limitation under subsection (a) shall not apply  
13 *to any alien who has not attained age 19 and is lawfully*  
14 *residing in any State, but only with respect to such alien’s*  
15 *eligibility for medical assistance under a State plan under*  
16 *title XIX of the Social Security Act (42 U.S.C. 1396 et*  
17 *seq.).”.*

18 **SEC. 5818. TREATMENT OF CERTAIN AMERASIAN IMMI-**  
19 **GRANTS AS REFUGEES.**

20           (a) *AMENDMENTS TO EXCEPTIONS FOR REFUGEES/*  
21 *ASYLEES.*—

22           (1) *FOR PURPOSES OF SSI AND FOOD STAMPS.*—  
23           Section 402(a)(2)(A) of the *Personal Responsibility*  
24 *and Work Opportunity Reconciliation Act of 1996 (8*  
25 *U.S.C. 1612(a)(2)(A)) is amended—*

1           (A) by striking “; or” at the end of clause  
2           (ii);

3           (B) by striking the period at the end of  
4           clause (iii) and inserting “; or”; and

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

6                   “(iv) an alien who is admitted to the  
7                   United States as an Amerasian immigrant  
8                   pursuant to section 584 of the Foreign Op-  
9                   erations, Export Financing, and Related  
10                  Programs Appropriations Act, 1988 (as  
11                  contained in section 101(e) of Public Law  
12                  100–202 and amended by the 9th proviso  
13                  under MIGRATION AND REFUGEE ASSIST-  
14                  ANCE in title II of the Foreign Operations,  
15                  Export Financing, and Related Programs  
16                  Appropriations Act, 1989, Public Law 100–  
17                  461, as amended).”.

18           (2) *FOR PURPOSES OF TANF, SSBG, AND MEDIC-*  
19           *AID.—Section 402(b)(2)(A) of the Personal Respon-*  
20           *sibility and Work Opportunity Reconciliation Act of*  
21           *1996 (8 U.S.C. 1612(a)(2)(A)) is amended—*

22                   (A) by striking “; or” at the end of clause  
23                   (ii);

24                   (B) by striking the period at the end of  
25                   clause (iii) and inserting “; or”; and

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

2                               “(iv) an alien described in subsection  
3                               (a)(2)(A)(iv) until 5 years after the date of  
4                               such alien’s entry into the United States.”.

5                   (3) *FOR PURPOSES OF EXCEPTION FROM 5-YEAR*  
6                   *LIMITED ELIGIBILITY OF QUALIFIED ALIENS.—Section*  
7                   *403(b)(1) of the Personal Responsibility and Work*  
8                   *Opportunity Reconciliation Act of 1996 (8 U.S.C.*  
9                   *1613(b)(1)) is amended by adding at the end the fol-*  
10                   *lowing:*

11                               “(D) An alien described in section  
12                               402(a)(2)(A)(iv).”.

13                   (4) *FOR PURPOSES OF CERTAIN STATE PRO-*  
14                   *GRAMS.—Section 412(b)(1) of the Personal Respon-*  
15                   *sibility and Work Opportunity Reconciliation Act of*  
16                   *1996 (8 U.S.C. 1622(b)(1)) is amended by adding at*  
17                   *the end the following new subparagraph:*

18                               “(D) An alien described in section  
19                               402(a)(2)(A)(iv).”.

20                   (b) *FUNDING.—*

21                               (1) *LEVY OF FEE.—The Attorney General*  
22                   *through the Immigration and Naturalization Service*  
23                   *shall levy a \$100 processing fee upon each alien that*  
24                   *the Service determines—*

1           (A) is unlawfully residing in the United  
2 States;

3           (B) has been arrested by a Federal law en-  
4 forcement officer for the commission of a felony;  
5 and

6           (C) merits deportation after having been de-  
7 termined by a court of law to have committed a  
8 felony while residing illegally in the United  
9 States.

10          (2) *COLLECTION AND USE.*—In addition to any  
11 other penalty provided by law, a court shall impose  
12 the fee described in paragraph (1) upon an alien de-  
13 scribed in such paragraph upon the entry of a judg-  
14 ment of deportation by such court. Funds collected  
15 pursuant to this subsection shall be credited by the  
16 Secretary of the Treasury as offsetting increased Fed-  
17 eral outlays resulting from the amendments made by  
18 section 5817A of the Balanced Budget Act of 1997.

19          (c) *EFFECTIVE DATE.*—The amendments made by this  
20 section shall be effective with respect to the period beginning  
21 on or after October 1, 1997.

22 **SEC. 5819. SSI ELIGIBILITY FOR SEVERELY DISABLED**  
23 **ALIENS.**

24          Section 402(a)(2) of the Personal Responsibility and  
25 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.



1           (1) *IN GENERAL.*—Section 403(a) (42 U.S.C.  
2           603(a)) is amended by adding at the end the follow-  
3           ing:

4           “(5) *WELFARE-TO-WORK GRANTS.*—

5           “(A) *NONCOMPETITIVE GRANTS.*—

6           “(i) *ENTITLEMENT.*—A State shall be  
7           entitled to receive from the Secretary a  
8           grant for each fiscal year specified in sub-  
9           paragraph (H) of this paragraph for which  
10          the State is a welfare-to-work State, in an  
11          amount that does not exceed the greater of—

12                 “(I) the allotment of the State  
13                 under clause (iii) of this subparagraph  
14                 for the fiscal year; or

15                 “(II) 0.5 percent of the amount  
16                 specified in subparagraph (H) for each  
17                 fiscal year minus the total of the  
18                 amounts reserved pursuant to subpara-  
19                 graphs (E), (F), and (G) for the fiscal  
20                 year.

21          The Secretary shall make pro rata reduc-  
22          tions in the amounts otherwise payable to  
23          States under this paragraph as necessary so  
24          that grants under this paragraph do not ex-

1            *ceed the available amount, as defined in*  
2            *clause (iv).*

3            *“(ii) WELFARE-TO-WORK STATE.—A*  
4            *State shall be considered a welfare-to-work*  
5            *State for a fiscal year for purposes of this*  
6            *subparagraph if the Secretary determines*  
7            *that the State meets the following require-*  
8            *ments:*

9            *“(I) The State has submitted to*  
10           *the Secretary (in the form of an adden-*  
11           *dum to the State plan submitted under*  
12           *section 402) a plan which—*

13           *“(aa) describes how, consist-*  
14           *ent with this subparagraph, the*  
15           *State will use any funds provided*  
16           *under this subparagraph during*  
17           *the fiscal year;*

18           *“(bb) specifies the formula to*  
19           *be used pursuant to clause (vi) to*  
20           *distribute funds in the State, and*  
21           *describes the process by which the*  
22           *formula was developed;*

23           *“(cc) contains evidence that*  
24           *the plan was developed in con-*

1                    *sultation and coordination with*  
2                    *sub-State areas; and*

3                    *“(dd) is approved by the*  
4                    *agency administering the State*  
5                    *program funded under this part.*

6                    *“(II) The State certifies to the*  
7                    *Secretary that the State intends to ex-*  
8                    *pend during the fiscal year (excluding*  
9                    *expenditures described in section*  
10                   *409(a)(7)(B)(iv)) for activities de-*  
11                   *scribed in clauses (i) and (ii) of sub-*  
12                   *paragraph (C) of this paragraph an*  
13                   *amount equal to not less than 33 per-*  
14                   *cent of the Federal funds provided*  
15                   *under this paragraph.*

16                   *“(III) The State has agreed to ne-*  
17                   *gotiate in good faith with the Secretary*  
18                   *with respect to the substance of any*  
19                   *evaluation under section 413(j), and to*  
20                   *cooperate with the conduct of any such*  
21                   *evaluation.*

22                   *“(IV) The State is an eligible*  
23                   *State for the fiscal year.*

24                   *“(V) Qualified State expenditures*  
25                   *(within the meaning of section*

1                   409(a)(7)) are the applicable percent-  
2                   age for the immediately preceding fis-  
3                   cal year, as defined by section  
4                   409(a)(7)(B)(ii).

5                   “(iii) ALLOTMENTS TO WELFARE-TO-  
6                   WORK STATES.—The allotment of a welfare-  
7                   to-work State for a fiscal year shall be the  
8                   available amount for the fiscal year multi-  
9                   plied by the State percentage for the fiscal  
10                  year.

11                  “(iv) AVAILABLE AMOUNT.—As used in  
12                  this subparagraph, the term ‘available  
13                  amount’ means, for a fiscal year, the sum  
14                  of—

15                         “(I) 75 percent of the sum of—

16                                 “(aa) the amount specified in  
17                                 subparagraph (H) for the fiscal  
18                                 year, minus the total of the  
19                                 amounts reserved pursuant to sub-  
20                                 paragraphs (E), (F), and (G) for  
21                                 the fiscal year; and

22                                 “(bb) any amount reserved  
23                                 pursuant to subparagraph (F) for  
24                                 the immediately preceding fiscal

1                   *year that has not been obligated;*

2                   *and*

3                   “(II) *any available amount for*  
4                   *the immediately preceding fiscal year*  
5                   *that has not been obligated by a State*  
6                   *or sub-State entity.*

7                   “(v) *STATE PERCENTAGE.—As used in*  
8                   *clause (iii), the term ‘State percentage’*  
9                   *means, with respect to a fiscal year,  $\frac{1}{3}$  of*  
10                   *the sum of—*

11                   “(I) *the percentage represented by*  
12                   *the number of individuals in the State*  
13                   *whose income is less than the poverty*  
14                   *line divided by the number of such in-*  
15                   *dividuals in the United States;*

16                   “(II) *the percentage represented*  
17                   *by the number of unemployed individ-*  
18                   *uals in the State divided by the num-*  
19                   *ber of such individuals in the United*  
20                   *States; and*

21                   “(III) *the percentage represented*  
22                   *by the number of individuals who are*  
23                   *adult recipients of assistance under the*  
24                   *State program funded under this part*  
25                   *divided by the number of individuals*

1           *in the United States who are adult re-*  
2           *ipients of assistance under any State*  
3           *program funded under this part.*

4           “(vi) *DISTRIBUTION OF FUNDS WITHIN*  
5           *STATES.—*

6                   “(I) *IN GENERAL.—A State to*  
7                   *which a grant is made under this sub-*  
8                   *paragraph shall distribute not less*  
9                   *than 85 percent of the grant funds*  
10                   *among the political subdivisions in the*  
11                   *State in which the percentage rep-*  
12                   *resented by the number of individuals*  
13                   *in the State whose income is less than*  
14                   *the poverty line divided by the number*  
15                   *of such individuals in the State, and*  
16                   *the percentage represented by the num-*  
17                   *ber of unemployed individuals in the*  
18                   *State divided by the number of such*  
19                   *individuals in the State are both above*  
20                   *the average such percentages for the*  
21                   *State, in accordance with a formula*  
22                   *which—*

23                           “(aa) *determines the amount*  
24                           *to be distributed for the benefit of*  
25                           *a political subdivision in propor-*

1                   tion to the number (if any) of in-  
2                   dividuals residing in the political  
3                   subdivision with an income that  
4                   is less than the poverty line, rel-  
5                   ative to such number of individ-  
6                   uals for the other political sub-  
7                   divisions in the State, and ac-  
8                   cords a weight of not less than 50  
9                   percent to this factor;

10                   “(bb) may determine the  
11                   amount to be distributed for the  
12                   benefit of a political subdivision  
13                   in proportion to the number of  
14                   adults residing in the political  
15                   subdivision who are recipients of  
16                   assistance under the State pro-  
17                   gram funded under this part  
18                   (whether in effect before or after  
19                   the amendments made by section  
20                   103(a) of the *Personal Respon-*  
21                   *sibility and Work Opportunity*  
22                   *Reconciliation Act first applied to*  
23                   *the State) for at least 30 months*  
24                   *(whether or not consecutive) rel-*  
25                   *ative to the number of such adults*

1           *residing in the other political sub-*  
2           *divisions in the State; and*

3           “(cc) may determine the  
4           amount to be distributed for the  
5           benefit of a political subdivision  
6           in proportion to the number of  
7           unemployed individuals residing  
8           in the political subdivision rel-  
9           ative to the number of such indi-  
10          viduals residing in the other polit-  
11          ical subdivisions in the State.

12          “(II) *SPECIAL RULE.*—Notwith-  
13          standing subclause (I), if the formula  
14          used pursuant to subclause (I) would  
15          result in the distribution of less than  
16          \$100,000 during a fiscal year for the  
17          benefit of a political subdivision, then  
18          in lieu of distributing such sum in ac-  
19          cordance with the formula, such sum  
20          shall be available for distribution  
21          under subclause (III) during the fiscal  
22          year.

23          “(III) *PROJECTS TO HELP LONG-*  
24          *TERM RECIPIENTS OF ASSISTANCE INTO*  
25          *THE WORK FORCE.*—The Governor of a

1           *State to which a grant is made under*  
2           *this subparagraph may distribute not*  
3           *more than 15 percent of the grant*  
4           *funds (plus any amount required to be*  
5           *distributed under this subclause by*  
6           *reason of subclause (II)) to projects*  
7           *that appear likely to help long-term re-*  
8           *cipients of assistance under the State*  
9           *program funded under this part*  
10          *(whether in effect before or after the*  
11          *amendments made by section 103(a) of*  
12          *the Personal Responsibility and Work*  
13          *Opportunity Reconciliation Act first*  
14          *applied to the State) enter the work*  
15          *force.*

16          “(vii) *ADMINISTRATION.*—

17                 “(I) *IN GENERAL.*—*A grant made*  
18                 *under this subparagraph to a State*  
19                 *shall be administered by the State*  
20                 *agency that is administering, or super-*  
21                 *vising the administration of, the State*  
22                 *program funded under this part.*

23          “(B) *COMPETITIVE GRANTS.*—

24                 “(i) *IN GENERAL.*—*The Secretary shall*  
25                 *award grants in accordance with this sub-*

1 paragraph, in fiscal years 1998 and 2000,  
2 for projects proposed by eligible applicants,  
3 based on the following:

4 “(I) The effectiveness of the pro-  
5 posal in—

6 “(aa) expanding the base of  
7 knowledge about programs aimed  
8 at moving recipients of assistance  
9 under State programs funded  
10 under this part who are least job  
11 ready into the work force.

12 “(bb) moving recipients of  
13 assistance under State programs  
14 funded under this part who are  
15 least job ready into the work force;  
16 and

17 “(cc) moving recipients of as-  
18 sistance under State programs  
19 funded under this part who are  
20 least job ready into the work force,  
21 even in labor markets that have a  
22 shortage of low-skill jobs.

23 “(II) At the discretion of the Sec-  
24 retary, any of the following:

1                   “(aa) *The history of success*  
2                   *of the applicant in moving indi-*  
3                   *viduals with multiple barriers*  
4                   *into work.*

5                   “(bb) *Evidence of the appli-*  
6                   *cant’s ability to leverage private,*  
7                   *State, and local resources.*

8                   “(cc) *Use by the applicant of*  
9                   *State and local resources beyond*  
10                  *those required by subparagraph*  
11                  *(A).*

12                  “(dd) *Plans of the applicant*  
13                  *to coordinate with other organiza-*  
14                  *tions at the local and State level.*

15                  “(ee) *Use by the applicant of*  
16                  *current or former recipients of as-*  
17                  *sistance under a State program*  
18                  *funded under this part as men-*  
19                  *tors, case managers, or service*  
20                  *providers.*

21                  “(III) *Evidence that the proposal*  
22                  *has the approval of the State agency*  
23                  *administering the program under this*  
24                  *part.*

1           “(i) *ELIGIBLE APPLICANTS.*—As used  
2           in clause (i), the term ‘eligible applicant’  
3           means a political subdivision of a State or  
4           a community action agency, community de-  
5           velopment corporation or other non-profit  
6           organizations with demonstrated effective-  
7           ness in moving welfare recipients into the  
8           workforce that submits a proposal that is  
9           approved by the agency administering the  
10          State program funded under this part.

11          “(iii) *DETERMINATION OF GRANT*  
12          *AMOUNT.*—In determining the amount of a  
13          grant to be made under this subparagraph  
14          for a project proposed by an applicant, the  
15          Secretary shall provide the applicant with  
16          an amount sufficient to ensure that the  
17          project has a reasonable opportunity to be  
18          successful, taking into account the number  
19          of long-term recipients of assistance under a  
20          State program funded under this part, the  
21          level of unemployment, the job opportunities  
22          and job growth, the poverty rate, and such  
23          other factors as the Secretary deems appro-  
24          priate, in the area to be served by the  
25          project.

1                   “(iv) *TARGETING OF FUNDS TO RURAL*  
2                   *AREAS.*—

3                   “(I) *IN GENERAL.*—*The Secretary*  
4                   *shall use not less than 30 percent of the*  
5                   *funds available for grants under this*  
6                   *subparagraph for a fiscal year to*  
7                   *award grants for expenditures in rural*  
8                   *areas.*

9                   “(II) *RURAL AREA DEFINED.*—*As*  
10                   *used in subclause (I), the term ‘rural*  
11                   *area’ means a city, town, or unincor-*  
12                   *porated area that has a population of*  
13                   *50,000 or fewer inhabitants and that is*  
14                   *not an urbanized area immediately ad-*  
15                   *jaacent to a city, town, or unincor-*  
16                   *porated area that has a population of*  
17                   *more than 50,000 inhabitants.*

18                   “(v) *FUNDING.*—*For grants under this*  
19                   *subparagraph for each fiscal year specified*  
20                   *in subparagraph (H), there shall be avail-*  
21                   *able to the Secretary an amount equal to*  
22                   *the sum of—*

23                   “(I) *25 percent of the sum of—*

24                   “(aa) *the amount specified in*  
25                   *subparagraph (H) for the fiscal*

1                   year, minus the total of the  
2                   amounts reserved pursuant to sub-  
3                   paragraphs (E), (F), and (G) for  
4                   the fiscal year; and

5                   “(bb) any amount reserved  
6                   pursuant to subparagraph (F) for  
7                   the immediately preceding fiscal  
8                   year that has not been obligated;  
9                   and

10                  “(II) any amount available for  
11                  grants under this subparagraph for the  
12                  immediately preceding fiscal year that  
13                  has not been obligated.

14                  “(C) *LIMITATIONS ON USE OF FUNDS.*—

15                  “(i) *ALLOWABLE ACTIVITIES.*—An en-  
16                  tity to which funds are provided under this  
17                  paragraph may use the funds to move into  
18                  the work force recipients of assistance under  
19                  the program funded under this part of the  
20                  State in which the entity is located and the  
21                  noncustodial parent of any minor who is  
22                  such a recipient, by means of any of the fol-  
23                  lowing:

1           “(I) Job creation through public  
2           or private sector employment wage  
3           subsidies.

4           “(II) On-the-job training.

5           “(III) Contracts with public or  
6           private providers of readiness, place-  
7           ment, and post-employment services.

8           “(IV) Job vouchers for placement,  
9           readiness, and post-employment serv-  
10          ices.

11          “(V) Job support services (exclud-  
12          ing child care services) if such services  
13          are not otherwise available.

14          “(VI) Technical assistance and re-  
15          lated services that lead to self-employ-  
16          ment through the microloan dem-  
17          onstration program under section 7(m)  
18          of the Small Business Act (15 U.S.C.  
19          636(m)).

20          Contracts or vouchers for job placement  
21          services supported by these funds must re-  
22          quire that at least  $\frac{1}{2}$  of the payment occur  
23          after a eligible individual placed into the  
24          workforce has been in the workforce for 6  
25          months.

1           “(i) *REQUIRED BENEFICIARIES.*—An  
2           *entity that operates a project with funds*  
3           *provided under this paragraph shall expend*  
4           *at least 90 percent of all funds provided to*  
5           *the project for the benefit of recipients of as-*  
6           *sistance under the program funded under*  
7           *this part of the State in which the entity is*  
8           *located who meet the requirements of either*  
9           *of the following subclauses:*

10                   “(I) *At least 2 of the following*  
11                   *apply to the recipient:*

12                           “(aa) *The individual has not*  
13                           *completed secondary school or ob-*  
14                           *tained a certificate of general*  
15                           *equivalency, and has low skills in*  
16                           *reading and mathematics.*

17                           “(bb) *The individual requires*  
18                           *substance abuse treatment for em-*  
19                           *ployment.*

20                           “(cc) *The individual has a*  
21                           *poor work history.*

22                   *The Secretary shall prescribe such reg-*  
23                   *ulations as may be necessary to inter-*  
24                   *pret this subclause.*

25                           “(II) *The individual—*

1           “(aa) has received assistance  
2           under the State program funded  
3           under this part (whether in effect  
4           before or after the amendments  
5           made by section 103 of the Per-  
6           sonal Responsibility and Work  
7           Opportunity Reconciliation Act of  
8           1996 first apply to the State) for  
9           at least 30 months (whether or not  
10          consecutive); or

11          “(bb) within 12 months, will  
12          become ineligible for assistance  
13          under the State program funded  
14          under this part by reason of a  
15          durational limit on such assist-  
16          ance, without regard to any ex-  
17          emption provided pursuant to sec-  
18          tion 408(a)(7)(C) that may apply  
19          to the individual.

20          “(iii) *LIMITATION ON APPLICABILITY*  
21          *OF SECTION 404.*—The rules of section 404,  
22          other than subsections (b), (f), and (h) of  
23          section 404, shall not apply to a grant  
24          made under this paragraph.

1           “(iv) *COOPERATION WITH TANF AGEN-*  
2           *CY.—On a determination by the Secretary*  
3           *an entity that operates a project with funds*  
4           *provided under this paragraph and the*  
5           *agency administering the State program*  
6           *funded under this part are not adhering to*  
7           *the agreement to implement any plan or*  
8           *project for which the funds are provided, the*  
9           *recipient of the funds shall remit the funds*  
10           *to the Secretary.*

11           “(v) *PROHIBITION AGAINST USE OF*  
12           *GRANT FUNDS FOR ANY OTHER FUND*  
13           *MATCHING REQUIREMENT.—An entity to*  
14           *which funds are provided under this para-*  
15           *graph shall not use any part of the funds to*  
16           *fulfill any obligation of any State, or politi-*  
17           *cal subdivision to contribute funds under*  
18           *other Federal law.*

19           “(vi) *DEADLINE FOR EXPENDITURE.—*  
20           *An entity to which funds are provided*  
21           *under this paragraph shall remit to the Sec-*  
22           *retary any part of the funds that are not*  
23           *expended within 3 years after the date the*  
24           *funds are so provided.*

1           “(D) *INDIVIDUALS WITH INCOME LESS*  
2 *THAN THE POVERTY LINE.*—For purposes of this  
3 *paragraph, the number of individuals with an*  
4 *income that is less than the poverty line shall be*  
5 *determined based on the methodology used by the*  
6 *Bureau of the Census to produce and publish*  
7 *intercensal poverty data for 1993 for States and*  
8 *counties.*

9           “(E) *SET-ASIDE FOR HIGH PERFORMANCE*  
10 *BONUS.*—\$100,000,000 of the amount specified  
11 *in subparagraph (H) for fiscal year 1999 shall*  
12 *be reserved for use by the Secretary to make*  
13 *bonus grants (in the same manner as such*  
14 *grants are determined under paragraph (4)) for*  
15 *fiscal year 2003 to those States that receive funds*  
16 *under this paragraph and that are most success-*  
17 *ful in increasing the earnings of individuals de-*  
18 *scribed in subparagraph (C)(i)(II).*

19           “(F) *SET-ASIDE FOR INDIAN TRIBES.*—1  
20 *percent of the amount specified in subparagraph*  
21 *(H) for each fiscal year shall be reserved for*  
22 *grants to Indian tribes under section 412(a)(3).*

23           “(G) *SET-ASIDE FOR EVALUATIONS.*—0.5  
24 *percent of the amount specified in subparagraph*

1           *(H) for each fiscal year shall be reserved for use*  
2           *by the Secretary to carry out section 413(j).*

3           *“(H) FUNDING.—The amount specified in*  
4           *this subparagraph is—*

5                     *“(i) \$750,000,000 for fiscal year 1998;*

6                     *“(ii) \$1,250,000,000 for fiscal year*  
7                     *1999; and*

8                     *“(iii) \$1,000,000,000 for fiscal year*  
9                     *2000.*

10           *“(I) AVAILABILITY OF FUNDS.—Amounts*  
11           *appropriated pursuant to this paragraph shall*  
12           *remain available through fiscal year 2002.*

13           *“(J) BUDGET SCORING.—Notwithstanding*  
14           *section 457(b)(2) of the Balanced Budget and*  
15           *Emergency Deficit Control Act of 1985, the base-*  
16           *line shall assume that no grant shall be awarded*  
17           *under this paragraph or under section 412(a)(3)*  
18           *after fiscal year 2000.*

19           *“(K) NONDISPLACEMENT IN WORK ACTIVI-*  
20           *TIES.—*

21                     *“(i) PROHIBITIONS.—*

22                     *“(I) GENERAL PROHIBITION.—A*  
23                     *participant in a work activity pursu-*  
24                     *ant to this paragraph shall not dis-*  
25                     *place (including a partial displace-*

1                   *ment, such as a reduction in the hours*  
2                   *of nonovertime work, wages, or employ-*  
3                   *ment benefits) any individual who, as*  
4                   *of the date of the participation, is an*  
5                   *employee.*

6                   “(II) *PROHIBITION ON IMPAIR-*  
7                   *MENT OF CONTRACTS.—A work activ-*  
8                   *ity pursuant to this paragraph shall*  
9                   *not impair an existing contract for*  
10                   *services or collective bargaining agree-*  
11                   *ment, and a work activity that would*  
12                   *be inconsistent with the terms of a col-*  
13                   *lective bargaining agreement shall not*  
14                   *be undertaken without the written con-*  
15                   *currence of the labor organization and*  
16                   *employer concerned.*

17                   “(III) *OTHER PROHIBITIONS.—A*  
18                   *participant in a work activity shall*  
19                   *not be employed in a job—*

20                    “(aa) *when any other indi-*  
21                    *vidual is on layoff from the same*  
22                    *or any substantially equivalent*  
23                    *job;*

24                    “(bb) *when the employer has*  
25                    *terminated the employment of any*

1           *regular employee or otherwise re-*  
2           *duced the workforce of the em-*  
3           *ployer with the intention of filling*  
4           *the vacancy so created with the*  
5           *participant; or*

6                   *“(cc) which is created in a*  
7                   *promotional line that will in-*  
8                   *fringe in any way upon the pro-*  
9                   *motional opportunities of em-*  
10                  *ployed individuals.*

11                  *“(ii) HEALTH AND SAFETY.—Health*  
12                  *and safety standards established under Fed-*  
13                  *eral and State law otherwise applicable to*  
14                  *working conditions of employees shall be*  
15                  *equally applicable to working conditions of*  
16                  *participants engaged in a work activity*  
17                  *pursuant to this paragraph. To the extent*  
18                  *that a State workers’ compensation law ap-*  
19                  *plies, workers’ compensation shall be pro-*  
20                  *vided to participants on the same basis as*  
21                  *the compensation is provided to other indi-*  
22                  *viduals in the State in similar employment.*

23                  *“(iii) GRIEVANCE PROCEDURE.—*

24                    *“(I) IN GENERAL.—Each State to*  
25                    *which a grant is made under this*

1 paragraph shall establish and main-  
2 tain a procedure for grievances or com-  
3 plaints alleging violations of clauses (i)  
4 or (ii) from participants and other in-  
5 terested or affected parties. The proce-  
6 dure shall include an opportunity for a  
7 hearing and be completed within 60  
8 days after the grievance or complaint  
9 is filed.

10 “(II) INVESTIGATION.—

11 “(aa) IN GENERAL.—The  
12 Secretary of Labor shall inves-  
13 tigate an allegation of a violation  
14 of clause (i) or (ii) if a decision  
15 relating to the violation is not  
16 reached within 60 days after the  
17 date of the filing of the grievance  
18 or complaint, and either party  
19 appeals to the Secretary of Labor,  
20 or a decision relating to the viola-  
21 tion is reached within the 60-day  
22 period, and the party to which the  
23 decision is adverse appeals the de-  
24 cision to the Secretary of Labor.

1                   “(bb) *ADDITIONAL REQUIRE-*  
2                   *MENT.—The Secretary of Labor*  
3                   *shall make a final determination*  
4                   *relating to an appeal made under*  
5                   *item (aa) not later than 120 days*  
6                   *after receiving the appeal.*

7                   “(III) *REMEDIES.—Remedies for*  
8                   *violation of clause (i) or (ii) shall be*  
9                   *limited to—*

10                   “(aa) *suspension or termi-*  
11                   *nation of payments under this*  
12                   *paragraph;*

13                   “(bb) *prohibition of place-*  
14                   *ment of a participant with an*  
15                   *employer that has violated clause*  
16                   *(i) or (ii);*

17                   “(cc) *where applicable, rein-*  
18                   *statement of an employee, pay-*  
19                   *ment of lost wages and benefits,*  
20                   *and reestablishment of other rel-*  
21                   *evant terms, conditions and privi-*  
22                   *leges of employment; and*

23                   “(dd) *where appropriate,*  
24                   *other equitable relief.”.*

1           (2)       *CONFORMING AMENDMENT.—Section*  
2       *409(a)(7)(B)(iv) of such Act (42 U.S.C.*  
3       *609(a)(7)(B)(iv)) is amended to read as follows:*

4                   “(iv) *EXPENDITURES BY THE STATE.—*  
5       *The term ‘expenditures by the State’ does*  
6       *not include—*

7                           “(I) *any expenditure from*  
8       *amounts made available by the Federal*  
9       *Government;*

10                           “(II) *any State funds expended*  
11       *for the medicaid program under title*  
12       *XIX;*

13                           “(III) *any State funds which are*  
14       *used to match Federal funds provided*  
15       *under section 403(a)(5); or*

16                           “(IV) *any State funds which are*  
17       *expended as a condition of receiving*  
18       *Federal funds other than under this*  
19       *part.*

20       *Notwithstanding subclause (IV) of the pre-*  
21       *ceding sentence, such term includes expendi-*  
22       *tures by a State for child care in a fiscal*  
23       *year to the extent that the total amount of*  
24       *the expenditures does not exceed the amount*  
25       *of State expenditures in fiscal year 1994 or*

1                   1995 (whichever is the greater) that equal  
2                   the non-Federal share for the programs de-  
3                   scribed in section 418(a)(1)(A).”.

4           (b) GRANTS TO OUTLYING AREAS.—Section  
5 1108(a)(1) of such Act (42 U.S.C. 1308(a)(1)) is amended  
6 by inserting “(except section 403(a)(5))” after “title IV”.

7           (c) GRANTS TO INDIAN TRIBES.—Section 412(a) of  
8 such Act (42 U.S.C. 612(a)) is amended by adding at the  
9 end the following:

10                   “(3) WELFARE-TO-WORK GRANTS.—

11                           “(A) IN GENERAL.—The Secretary shall  
12                           award a grant in accordance with this para-  
13                           graph to an Indian tribe for each fiscal year  
14                           specified in section 403(a)(5)(H) for which the  
15                           Indian tribe is a welfare-to-work tribe, in such  
16                           amount as the Secretary deems appropriate, sub-  
17                           ject to subparagraph (B) of this paragraph.

18                           “(B) WELFARE-TO-WORK TRIBE.—An In-  
19                           dian tribe shall be considered a welfare-to-work  
20                           tribe for a fiscal year for purposes of this para-  
21                           graph if the Indian tribe meets the following re-  
22                           quirements:

23                                   “(i) The Indian tribe has submitted to  
24                                   the Secretary (in the form of an addendum  
25                                   to the tribal family assistance plan, if any,

1           of the Indian tribe) a plan which describes  
2           how, consistent with section 403(a)(5), the  
3           Indian tribe will use any funds provided  
4           under this paragraph during the fiscal  
5           year.

6           “(ii) The Indian tribe has provided the  
7           Secretary with an estimate of the amount  
8           that the Indian tribe intends to expend dur-  
9           ing the fiscal year (excluding tribal expend-  
10          itures described in section 409(a)(7)(B)(iv))  
11          for activities described in section  
12          403(a)(5)(C)(i).

13          “(iii) The Indian tribe has agreed to  
14          negotiate in good faith with the Secretary of  
15          Health and Human Services with respect to  
16          the substance of any evaluation under sec-  
17          tion 413(j), and to cooperate with the con-  
18          duct of any such evaluation.

19          “(C) *LIMITATIONS ON USE OF FUNDS.*—Sec-  
20          tion 403(a)(5)(C) shall apply to funds provided  
21          to Indian tribes under this paragraph in the  
22          same manner in which such section applies to  
23          funds provided under section 403(a)(5).”.

24          (d) *FUNDS RECEIVED FROM GRANTS TO BE DIS-*  
25          *REGARDED IN APPLYING DURATIONAL LIMIT ON ASSIST-*

1 ANCE.—Section 408(a)(7) of such Act (42 U.S.C. 608(a)(7))  
2 is amended by adding at the end the following:

3           “(G) *INAPPLICABILITY TO WELFARE-TO-*  
4           *WORK GRANTS AND ASSISTANCE.*—For purposes  
5           of subparagraph (A) of this paragraph, a grant  
6           made under section 403(a)(5) shall not be con-  
7           sidered a grant made under section 403, and as-  
8           sistance from funds provided under section  
9           403(a)(5) shall not be considered assistance.”.

10       (e) *EVALUATIONS.*—Section 413 of such Act (42 U.S.C.  
11 613) is amended by adding at the end the following:

12       “(j) *EVALUATION OF WELFARE-TO-WORK PRO-*  
13       *GRAMS.*—

14           “(1) *EVALUATION.*—The Secretary—

15           “(A) shall, in consultation with the Sec-  
16           retary of Labor, develop a plan to evaluate how  
17           grants made under sections 403(a)(5) and  
18           412(a)(3) have been used;

19           “(B) may evaluate the use of such grants by  
20           such grantees as the Secretary deems appro-  
21           priate, in accordance with an agreement entered  
22           into with the grantees after good-faith negotia-  
23           tions; and

1           “(C) shall include the following outcome  
2           measures in the plan developed under subpara-  
3           graph (A):

4                   “(i) Placements in the labor force and  
5                   placements in the labor force that last for at  
6                   least 6 months.

7                   “(ii) Placements in the private and  
8                   public sectors.

9                   “(iii) Earnings of individuals who ob-  
10                  tain employment.

11                  “(iv) Average expenditures per place-  
12                  ment.

13           “(2) REPORTS TO THE CONGRESS.—

14                   “(A) IN GENERAL.—Subject to subpara-  
15                   graphs (B) and (C), the Secretary, in consulta-  
16                   tion with the Secretary of Labor and the Sec-  
17                   retary of Housing and Urban Development, shall  
18                   submit to the Congress reports on the projects  
19                   funded under sections 403(a)(5) and 412(a)(3)  
20                   and on the evaluations of the projects.

21                   “(B) INTERIM REPORT.—Not later than  
22                   January 1, 1999, the Secretary shall submit an  
23                   interim report on the matter described in sub-  
24                   paragraph (A).

1           “(C) *FINAL REPORT*.—Not later than Janu-  
2           ary 1, 2001 (or at a later date, if the Secretary  
3           informs the committees of the Congress with ju-  
4           risdiction over the subject matter of the report)  
5           the Secretary shall submit a final report on the  
6           matter described in subparagraph (A).”.

7   **SEC. 5822. CLARIFICATION OF A STATE’S ABILITY TO SANC-**  
8           **TION AN INDIVIDUAL RECEIVING ASSIST-**  
9           **ANCE UNDER TANF FOR NONCOMPLIANCE.**

10       (a) *IN GENERAL*.—Section 408 (42 U.S.C. 608) is  
11       amended—

12           (1) by redesignating subsections (c) and (d) as  
13       subsections (d) and (e), respectively; and

14           (2) by inserting after subsection (b), the follow-  
15       ing:

16       “(c) *NONAPPLICATION OF ANY MINIMUM WAGE RE-*  
17       *QUIREMENTS WITH RESPECT TO INDIVIDUAL SANC-*  
18       *TIONS*.—Notwithstanding any other provision of law, any  
19       requirement imposed by law, regulation, or otherwise that  
20       requires that an individual in a family that receives assist-  
21       ance under the State program funded under this part re-  
22       ceive the applicable minimum wage under section 6 of the  
23       *Fair Labor Standards Act* (29 U.S.C. 206), shall not pro-  
24       hibit a State from imposing against a family that includes  
25       such an individual any penalty that may be imposed under

1 *the State program funded under this part for failure to*  
 2 *comply with a requirement under such program.”.*

3 (b) *RETROACTIVITY.*—*The amendment made by sub-*  
 4 *section (a) shall take effect as if included in the enactment*  
 5 *of section 103(a) of the Personal Responsibility and Work*  
 6 *Opportunity Reconciliation Act of 1996 (Public Law 104–*  
 7 *193; 110 Stat. 2112).*

8 **CHAPTER 3—UNEMPLOYMENT**  
 9 **COMPENSATION**

10 **SEC. 5831. INCREASE IN FEDERAL UNEMPLOYMENT AC-**  
 11 **COUNT CEILING.**

12 (a) *IN GENERAL.*—*Section 902(a)(2) (42 U.S.C.*  
 13 *1102(a)(2)) is amended by striking “0.25 percent” and in-*  
 14 *serting “0.5 percent”.*

15 (b) *EFFECTIVE DATE.*—*This section and the amend-*  
 16 *ment made by this section—*

17 (1) *shall take effect on October 1, 2001, and*

18 (2) *shall apply to fiscal years beginning on or*  
 19 *after that date.*

20 **SEC. 5832. SPECIAL DISTRIBUTION TO STATES FROM UNEM-**  
 21 **PLOYMENT TRUST FUND.**

22 (a) *IN GENERAL.*—*Section 903(a) (42 U.S.C. 1103(a))*  
 23 *is amended by adding at the end the following new para-*  
 24 *graph:*

1       “(3)(A) Notwithstanding any other provision of this  
2 section, for purposes of carrying out this subsection with  
3 respect to any excess amount (referred to in paragraph (1))  
4 remaining in the employment security administration ac-  
5 count as of the close of fiscal year 1999, 2000, or 2001, such  
6 amount shall—

7               “(i) to the extent of any amounts not in excess  
8 of \$100,000,000, be subject to subparagraph (B), and

9               “(ii) to the extent of any amounts in excess of  
10 \$100,000,000, be subject to subparagraph (C).

11       “(B) Paragraphs (1) and (2) shall apply with respect  
12 to any amounts described in subparagraph (A)(i), except  
13 that—

14               “(i) in carrying out the provisions of paragraph  
15 (2)(B) with respect to such amounts (to determine the  
16 portion of such amounts which is to be allocated to  
17 a State for a succeeding fiscal year), the ratio to be  
18 applied under such provisions shall be the same as the  
19 ratio that—

20               “(I) the amount of funds to be allocated to  
21 such State for such fiscal year pursuant to title  
22 III, bears to

23               “(II) the total amount of funds to be allo-  
24 cated to all States for such fiscal year pursuant  
25 to title III,

1       *as determined by the Secretary of Labor, and*

2               “(ii) *the amounts allocated to a State pursuant*  
3       *to this subparagraph shall be available to such State,*  
4       *subject to the last sentence of subsection (c)(2).*

5 *Nothing in this paragraph shall preclude the application*  
6 *of subsection (b) with respect to any allocation determined*  
7 *under this subparagraph.*

8       “(C) *Any amounts described in clause (ii) of subpara-*  
9 *graph (A) (remaining in the employment security adminis-*  
10 *tration account as of the close of any fiscal year specified*  
11 *in such subparagraph) shall, as of the beginning of the suc-*  
12 *ceeding fiscal year, accrue to the Federal unemployment ac-*  
13 *count, without regard to the limit provided in section*  
14 *902(a).”.*

15       (b) *CONFORMING AMENDMENT.—Paragraph (2) of sec-*  
16 *tion 903(c) of the Social Security Act is amended by adding*  
17 *at the end, as a flush left sentence, the following:*

18 *“Any amount allocated to a State under this section for*  
19 *fiscal year 2000, 2001, or 2002 may be used by such State*  
20 *only to pay expenses incurred by it for the administration*  
21 *of its unemployment compensation law, and may be so used*  
22 *by it without regard to any of the conditions prescribed in*  
23 *any of the preceding provisions of this paragraph.”.*

1 **SEC. 5833. TREATMENT OF CERTAIN SERVICES PERFORMED**  
2 **BY INMATES.**

3 (a) *IN GENERAL.*—Subsection (c) of section 3306 of  
4 the Internal Revenue Code of 1986 (defining employment)  
5 is amended—

6 (1) by striking “or” at the end of paragraph  
7 (19),

8 (2) by striking the period at the end of para-  
9 graph (20) and inserting “; or”, and

10 (3) by adding at the end the following new para-  
11 graph:

12 “(21) service performed by a person committed  
13 to a penal institution.”.

14 (b) *EFFECTIVE DATE.*—The amendments made by this  
15 section shall apply with respect to service performed after  
16 March 26, 1996.

1 ***DIVISION 4—EARNED INCOME***  
2 ***CREDIT AND OTHER PROVI-***  
3 ***SIONS***

4 ***Subtitle L—Earned Income Credit***  
5 ***and Other Provisions***

6 ***CHAPTER 1—EARNED INCOME CREDIT***

7 ***SEC. 5851. RESTRICTIONS ON AVAILABILITY OF EARNED IN-***  
8 ***COME CREDIT FOR TAXPAYERS WHO IMPROP-***  
9 ***ERLY CLAIMED CREDIT IN PRIOR YEAR.***

10 *(a) IN GENERAL.—Section 32 of the Internal Revenue*  
11 *Code of 1986 (relating to earned income credit) is amended*  
12 *by redesignating subsections (k) and (l) as subsections (l)*  
13 *and (m), respectively, and by inserting after subsection (j)*  
14 *the following new subsection:*

15 *“(k) RESTRICTIONS ON TAXPAYERS WHO IMPROPERLY*  
16 *CLAIMED CREDIT IN PRIOR YEAR.—*

17 *“(1) TAXPAYERS MAKING PRIOR FRAUDULENT OR*  
18 *RECKLESS CLAIMS.—*

19 *“(A) IN GENERAL.—No credit shall be al-*  
20 *lowed under this section for any taxable year in*  
21 *the disallowance period.*

22 *“(B) DISALLOWANCE PERIOD.—For pur-*  
23 *poses of paragraph (1), the disallowance period*  
24 *is—*

1           “(i) the period of 10 taxable years after  
2           the most recent taxable year for which there  
3           was a final determination that the tax-  
4           payer’s claim of credit under this section  
5           was due to fraud, and

6           “(ii) the period of 2 taxable years after  
7           the most recent taxable year for which there  
8           was a final determination that the tax-  
9           payer’s claim of credit under this section  
10          was due to reckless or intentional disregard  
11          of rules and regulations (but not due to  
12          fraud).

13           “(2) *TAXPAYERS MAKING IMPROPER PRIOR*  
14          *CLAIMS.*—*In the case of a taxpayer who is denied*  
15          *credit under this section for any taxable year as a re-*  
16          *sult of the deficiency procedures under subchapter B*  
17          *of chapter 63, no credit shall be allowed under this*  
18          *section for any subsequent taxable year unless the tax-*  
19          *payer provides such information as the Secretary*  
20          *may require to demonstrate eligibility for such cred-*  
21          *it.”.*

22           “(b) *DUE DILIGENCE REQUIREMENT ON INCOME TAX*  
23          *RETURN PREPARERS.*—*Section 6695 of the Internal Reve-*  
24          *nue Code of 1986 (relating to other assessable penalties with*  
25          *respect to the preparation of income tax returns for other*

1 persons) is amended by adding at the end the following new  
2 subsection:

3       “(g) *FAILURE TO BE DILIGENT IN DETERMINING ELI-*  
4 *GIBILITY FOR EARNED INCOME CREDIT.*—Any person who  
5 is an income tax preparer with respect to any return or  
6 claim for refund who fails to comply with due diligence re-  
7 quirements imposed by the Secretary by regulations with  
8 respect to determining eligibility for, or the amount of, the  
9 credit allowable by section 32 shall pay a penalty of \$100  
10 for each such failure.”.

11       (c) *EXTENSION PROCEDURES APPLICABLE TO MATHE-*  
12 *MATICAL OR CLERICAL ERRORS.*—Paragraph (2) of section  
13 6213(g) (relating to the definition of mathematical or cleri-  
14 cal errors) is amended by striking “and” at the end of sub-  
15 paragraph (H), by striking the period at the end of sub-  
16 paragraph (I) and inserting “, and”, and by inserting after  
17 subparagraph (I) the following new subparagraph:

18               “(J) an omission of information required  
19 by section 32(k)(2) (relating to taxpayers mak-  
20 ing improper prior claims of earned income  
21 credit).”.

22       (c) *EFFECTIVE DATE.*—The amendments made by this  
23 section shall apply to taxable years beginning after Decem-  
24 ber 31, 1996.

1     **CHAPTER 2—INCREASE IN PUBLIC DEBT**  
2                                     **LIMIT**

3     **SEC. 5861. INCREASE IN PUBLIC DEBT LIMIT.**

4             *Subsection (b) of section 3101 of title 31, United States*  
5     *Code, is amended by striking the dollar amount contained*  
6     *therein and inserting “\$5,950,000,000,000”.*

7                                     **CHAPTER 3—MISCELLANEOUS**

8     **SEC. 5871. SENSE OF THE SENATE REGARDING THE COR-**  
9                                     **RECTION OF COST-OF-LIVING ADJUSTMENTS.**

10            *(a) FINDINGS.—The Senate makes the following find-*  
11     *ings:*

12                     *(1) The final report of the Senate Finance Com-*  
13     *mittee’s Advisory Commission to Study the Consumer*  
14     *Price Index, chaired by Professor Michael Boskin, has*  
15     *concluded that the Consumer Price Index overstates*  
16     *the cost of living in the United States by 1.1 percent-*  
17     *age points.*

18                     *(2) Dr. Alan Greenspan, Chairman of the Board*  
19     *of Governors of the Federal Reserve System, has testi-*  
20     *fied before the Senate Finance Committee that “the*  
21     *best available evidence suggests that there is virtually*  
22     *no chance that the CPI as currently published under-*  
23     *states” the cost of living and that there is “a very*  
24     *high probability that the upward bias ranges between*

1         $\frac{1}{2}$  percentage point per year and  $1\frac{1}{2}$  percentage  
2        points per year”.

3            (3) *The overstatement of the cost of living by the*  
4        *Consumer Price Index has been recognized by econo-*  
5        *mists since at least 1961, when a report noting the*  
6        *existence of the overstatement was issued by a Na-*  
7        *tional Bureau of Economic Research Committee,*  
8        *chaired by Professor George J. Stigler.*

9            (4) *Congress and the President, through the in-*  
10       *dexing of Federal tax brackets, Social Security bene-*  
11       *fits, and other Federal program benefits, have under-*  
12       *taken to protect taxpayers and beneficiaries of such*  
13       *programs from the erosion of purchasing power due*  
14       *to inflation.*

15           (5) *Congress and the President intended the in-*  
16       *dexing of Federal tax brackets, Social Security bene-*  
17       *fits, and other Federal program benefits to accurately*  
18       *reflect changes in the cost of living.*

19           (6) *The overstatement of the cost of living in-*  
20       *creases the deficit and undermines the equitable ad-*  
21       *ministration of Federal benefits and tax policies.*

22        (b) *SENSE OF THE SENATE.—It is the sense of the Sen-*  
23       *ate that all cost-of-living adjustments required by statute*  
24       *should accurately reflect the best available estimate of*  
25       *changes in the cost of living.*

1           ***Subtitle M—Welfare Reform***  
2                           ***Technical Corrections***

3   **SEC. 5900. SHORT TITLE OF SUBTITLE.**

4           *This subtitle may be cited as the “Welfare Reform*  
5 *Technical Corrections Act of 1997”.*

6   **CHAPTER 1—BLOCK GRANTS FOR TEM-**  
7           ***PORARY ASSISTANCE TO NEEDY FAMI-***  
8           ***LIES***

9   **SEC. 5901. AMENDMENT OF THE SOCIAL SECURITY ACT.**

10          *Except as otherwise expressly provided, wherever in*  
11 *this chapter an amendment or repeal is expressed in terms*  
12 *of an amendment to, or repeal of a section or other provi-*  
13 *sion, the reference shall be considered to be made to a section*  
14 *or other provision of the Social Security Act, and if the*  
15 *section or other provision is of part A of title IV of such*  
16 *Act, the reference shall be considered to be made to the sec-*  
17 *tion or other provision as amended by section 103, and as*  
18 *in effect pursuant to section 116, of the Personal Respon-*  
19 *sibility and Work Opportunity Reconciliation Act of 1996.*

20   **SEC. 5902. ELIGIBLE STATES; STATE PLAN.**

21          (a) *LATER DEADLINE FOR SUBMISSION OF STATE*  
22 *PLANS.*—*Section 402(a) (42 U.S.C. 602(a)) is amended by*  
23 *striking “2-year period immediately preceding” and insert-*  
24 *ing “27-month period ending with the close of the 1st quar-*  
25 *ter of”.*

1           (b) *CLARIFICATION OF SCOPE OF WORK PROVI-*  
 2 *SIONS.*—Section 402(a)(1)(A)(ii) (42 U.S.C.  
 3 602(a)(1)(A)(ii)) is amended by inserting “, consistent with  
 4 section 407(e)(2)” before the period.

5           (c) *CORRECTION OF CROSS-REFERENCE.*—Section  
 6 402(a)(1)(A)(v) (42 U.S.C. 602(a)(1)(A)(v)) is amended by  
 7 striking “403(a)(2)(B)” and inserting “403(a)(2)(C)(iii)”.

8           (d) *NOTIFICATION OF PLAN AMENDMENTS.*—Section  
 9 402 (42 U.S.C. 602) is amended—

10                   (1) by redesignating subsection (b) as subsection

11                   (c) and inserting after subsection (a) the following:

12                   “(b) *PLAN AMENDMENTS.*—Within 30 days after a  
 13 State amends a plan submitted pursuant to subsection (a),  
 14 the State shall notify the Secretary of the amendment.”; and

15                   (2) in subsection (c) (as so redesignated), by in-  
 16                   serting “or plan amendment” after “plan”.

17 **SEC. 5903. GRANTS TO STATES.**

18           (a) *BONUS FOR DECREASE IN ILLEGITIMACY MODI-*  
 19 *FIED TO TAKE ACCOUNT OF CERTAIN TERRITORIES.*—

20                   (1) *IN GENERAL.*—Section 403(a)(2)(B) (42  
 21 U.S.C. 603(a)(2)(B)) is amended to read as follows:

22                                   “(B) *AMOUNT OF GRANT.*—

23   “(i) *IN GENERAL.*—If, for a bonus  
 24 year, none of the eligible States is Guam,

1           *the Virgin Islands, or American Samoa,*  
2           *then the amount of the grant shall be—*

3                     “(I) \$20,000,000 if there are 5 eli-  
4                     *gible States; or*

5                     “(II) \$25,000,000 if there are  
6                     *fewer than 5 eligible States.*

7                     “(ii) *AMOUNT IF CERTAIN TERRI-*  
8                     *TORIES ARE ELIGIBLE.—If, for a bonus*  
9                     *year, Guam, the Virgin Islands, or Amer-*  
10                    *ican Samoa is an eligible State, then the*  
11                    *amount of the grant shall be—*

12                    “(I) *in the case of such a terri-*  
13                    *tory, 25 percent of the mandatory ceil-*  
14                    *ing amount (as defined in section*  
15                    *1108(c)(4)) with respect to the terri-*  
16                    *tory; and*

17                    “(II) *in the case of a State that is*  
18                    *not such a territory—*

19                             “(aa) *if there are 5 eligible*  
20                             *States other than such territories,*  
21                             *\$20,000,000, minus  $\frac{1}{5}$  of the total*  
22                             *amount of the grants payable*  
23                             *under this paragraph to such ter-*  
24                             *ritories for the bonus year; or*

1                   “(bb) if there are fewer than  
2                   5     such     eligible     States,  
3                   \$25,000,000,     or     such     lesser  
4                   amount as may be necessary to  
5                   ensure that the total amount of  
6                   grants payable under this para-  
7                   graph for the bonus year does not  
8                   exceed \$100,000,000.”.

9                   (2)     CERTAIN     TERRITORIES     TO     BE  
10                  IGNORED     IN     RANKING     OTHER     STATES.—  
11                  Section     403(a)(2)(C)(i)(I)(aa)     (42     U.S.C.  
12                  603(a)(2)(C)(i)(I)(aa)) is amended by adding at the  
13                  end the following: “In the case of a State that is not  
14                  a territory specified in subparagraph (B), the com-  
15                  parative magnitude of the decrease for the State shall  
16                  be determined without regard to the magnitude of the  
17                  corresponding decrease for any such territory.”.

18                  (b) COMPUTATION OF BONUS BASED ON RATIOS OF  
19     OUT-OF-WEDLOCK BIRTHS TO ALL BIRTHS INSTEAD OF  
20     NUMBERS OF OUT-OF-WEDLOCK BIRTHS.—Section  
21     403(a)(2) (42 U.S.C. 603(a)(2)) is amended—

22                  (1) in the paragraph heading, by inserting  
23                  “RATIO” before the period;

24                  (2) in subparagraph (A), by striking all that fol-  
25                  lows “bonus year” and inserting a period; and

1           (3) *in subparagraph (C)*—

2               (A) *in clause (i)*—

3                   (i) *in subclause (I)(aa)*—

4                       (I) *by striking “number of out-of-*  
5 *wedlock births that occurred in the*  
6 *State during” and inserting “illegit-*  
7 *imacy ratio of the State for”; and*

8                       (II) *by striking “number of such*  
9 *births that occurred during” and in-*  
10 *serting “illegitimacy ratio of the State*  
11 *for”; and*

12                   (ii) *in subclause (II)(aa)*—

13                       (I) *by striking “number of out-of-*  
14 *wedlock births that occurred in” each*  
15 *place such term appears and inserting*  
16 *“illegitimacy ratio of”; and*

17                       (II) *by striking “calculate the*  
18 *number of out-of-wedlock births” and*  
19 *inserting “calculate the illegitimacy*  
20 *ratio”; and*

21           (B) *by adding at the end the following:*

22                   “(iii) *ILLEGITIMACY RATIO.*—*The term*  
23 *‘illegitimacy ratio’ means, with respect to a*  
24 *State and a period—*

1                   “(I) the number of out-of-wedlock  
2                   births to mothers residing in the State  
3                   that occurred during the period; di-  
4                   vided by

5                   “(II) the number of births to  
6                   mothers residing in the State that oc-  
7                   curred during the period.”.

8           (c) *USE OF CALENDAR YEAR DATA INSTEAD OF FIS-*  
9 *CAL YEAR DATA IN CALCULATING BONUS FOR DECREASE*  
10 *IN ILLEGITIMACY RATIO.*—Section 403(a)(2)(C) (42 U.S.C.  
11 603(a)(2)(C)) is amended—

12                   (1) in clause (i)—

13                           (A) in subclause (I)(bb)—

14                                   (i) by striking “the fiscal year” and  
15                                   inserting “the calendar year for which the  
16                                   most recent data are available”; and

17                                   (ii) by striking “fiscal year 1995” and  
18                                   inserting “calendar year 1995”;

19                           (B) in subclause (II), by striking “fiscal”  
20                           each place such term appears and inserting “cal-  
21                           endar”; and

22                   (2) in clause (ii), by striking “fiscal years” and  
23                   inserting “calendar years”.

1           (d)       CORRECTION       OF       HEADING.—Section  
2 403(a)(3)(C)(ii) (42 U.S.C. 603(a)(3)(C)(ii)) is amended in  
3 the heading by striking “1997” and inserting “1998”.

4           (e)       CLARIFICATION OF CONTINGENCY FUND PROVI-  
5 SION.—Section 403(b) (42 U.S.C. 603(b)) is amended—

6                   (1) in paragraph (6), by striking “(5)” and in-  
7 serting “(4)”;

8                   (2) by striking paragraph (4) and redesignating  
9 paragraphs (5) and (6) as paragraphs (4) and (5),  
10 respectively; and

11                   (3) by inserting after paragraph (5) the follow-  
12 ing:

13                   “(6) ANNUAL RECONCILIATION.—

14                           “(A) IN GENERAL.—Notwithstanding para-  
15 graph (3), if the Secretary makes a payment to  
16 a State under this subsection in a fiscal year,  
17 then the State shall remit to the Secretary, with-  
18 in 1 year after the end of the first subsequent pe-  
19 riod of 3 consecutive months for which the State  
20 is not a needy State, an amount equal to the  
21 amount (if any) by which—

22                                   “(i) the total amount paid to the State  
23 under paragraph (3) of this subsection in  
24 the fiscal year; exceeds

25                                   “(ii) the product of—

1           “(I) *the Federal medical assist-*  
2           *ance percentage for the State (as de-*  
3           *defined in section 1905(b), as such sec-*  
4           *tion was in effect on September 30,*  
5           *1995);*

6           “(II) *the State’s reimbursable ex-*  
7           *penditures for the fiscal year; and*

8           “(III)  *$1/12$  times the number of*  
9           *months during the fiscal year for*  
10           *which the Secretary made a payment*  
11           *to the State under such paragraph (3).*

12           “(B) *DEFINITIONS.—As used in subpara-*  
13           *graph (A):*

14           “(i) *REIMBURSABLE EXPENDITURES.—*  
15           *The term ‘reimbursable expenditures’*  
16           *means, with respect to a State and a fiscal*  
17           *year, the amount (if any) by which—*

18           “(I) *countable State expenditures*  
19           *for the fiscal year; exceeds*

20           “(II) *historic State expenditures*  
21           *(as defined in section*  
22           *409(a)(7)(B)(iii)), excluding any*  
23           *amount expended by the State for child*  
24           *care under subsection (g) or (i) of sec-*

1                    *tion 402 (as in effect during fiscal year*  
2                    *1994) for fiscal year 1994.*

3                    “(ii) *COUNTABLE STATE EXPENDI-*  
4                    *TURES.—The term ‘countable expenditures’*  
5                    *means, with respect to a State and a fiscal*  
6                    *year—*

7                    *“(I) the qualified State expendi-*  
8                    *tures (as defined in section*  
9                    *409(a)(7)(B)(i) (other than the expendi-*  
10                    *tures described in subclause (I)(bb) of*  
11                    *such section)) under the State program*  
12                    *funded under this part for the fiscal*  
13                    *year; plus*

14                    *“(II) any amount paid to the*  
15                    *State under paragraph (3) during the*  
16                    *fiscal year that is expended by the*  
17                    *State under the State program funded*  
18                    *under this part.”.*

19                    (f) *ADMINISTRATION OF CONTINGENCY FUND TRANS-*  
20                    *FERRED TO THE SECRETARY OF HHS.—Section 403(b)(7)*  
21                    *(42 U.S.C. 603(b)(7)) is amended to read as follows:*

22                    “(7) *STATE DEFINED.—As used in this sub-*  
23                    *section, the term ‘State’ means each of the 50 States*  
24                    *and the District of Columbia.”.*

1 **SEC. 5904. USE OF GRANTS.**

2       Section 404(a)(2) (42 U.S.C. 604(a)(2)) is amended  
3 by inserting “, or (at the option of the State) August 21,  
4 1996” before the period.

5 **SEC. 5905. MANDATORY WORK REQUIREMENTS.**

6       (a) *FAMILY WITH A DISABLED PARENT NOT TREATED*  
7 *AS A 2-PARENT FAMILY.*—Section 407(b)(2) (42 U.S.C.  
8 607(b)(2)) is amended by adding at the end the following:

9               “(C) *FAMILY WITH A DISABLED PARENT*  
10               *NOT TREATED AS A 2-PARENT FAMILY.*—A family  
11               that includes a disabled parent shall not be con-  
12               sidered a 2-parent family for purposes of sub-  
13               sections (a) and (b) of this section.”.

14       (b) *CORRECTION OF HEADING.*—Section 407(b)(3) (42  
15 U.S.C. 607(b)(3)) is amended in the heading by inserting  
16 “AND NOT RESULTING FROM CHANGES IN STATE ELIGI-  
17 BILITY CRITERIA” before the period.

18       (c) *STATE OPTION TO INCLUDE INDIVIDUALS RECEIV-*  
19 *ING ASSISTANCE UNDER A TRIBAL WORK PROGRAM IN*  
20 *PARTICIPATION RATE CALCULATION.*—Section 407(b)(4)  
21 (42 U.S.C. 607(b)(4)) is amended—

22               (1) in the heading, by inserting “OR TRIBAL  
23               WORK PROGRAM” before the period; and

24               (2) by inserting “or under a tribal work pro-  
25               gram to which funds are provided under this part”  
26               before the period.

1           (d) *SHARING OF 35-HOUR WORK REQUIREMENT BE-*  
2 *TWEEN PARENTS IN 2-PARENT FAMILIES.*—Section  
3 407(c)(1)(B) (42 U.S.C. 607(c)(1)(B)) is amended—

4           (1) in clause (i)—

5                   (A) by striking “is” and inserting “and the  
6 other parent in the family are”; and

7                   (B) by inserting “a total of” before “at  
8 least”; and

9           (2) in clause (ii)—

10                   (A) by striking “individual’s spouse is” and  
11 inserting “individual and the other parent in the  
12 family are”;

13                   (B) by inserting “for a total of at least 55  
14 hours per week” before “during the month”; and

15                   (C) by striking “20” and inserting “50”.

16           (e) *CLARIFICATION OF EFFORT REQUIRED IN WORK*  
17 *ACTIVITIES.*—Section 407(c)(1)(B) (42 U.S.C.  
18 607(c)(1)(B)) is amended by striking “making progress”  
19 each place such term appears and inserting “participat-  
20 ing”.

21           (f) *ADDITIONAL CONDITION UNDER WHICH 12 WEEKS*  
22 *OF JOB SEARCH MAY COUNT AS WORK.*—Section  
23 407(c)(2)(A)(i) (42 U.S.C. 607(c)(2)(A)(i)) is amended by  
24 inserting “or the State is a needy State (within the mean-  
25 ing of section 403(b)(6))” after “United States”.

1           (g) *CARETAKER RELATIVE OF CHILD UNDER AGE 6*  
2 *DEEMED TO BE MEETING WORK REQUIREMENTS IF EN-*  
3 *GAGED IN WORK FOR 20 HOURS PER WEEK.*—Section  
4 *407(c)(2)(B) (42 U.S.C. 607(c)(2)(B)) is amended—*

5           (1) *in the heading, by inserting “OR RELATIVE”*  
6 *after “PARENT” each place such term appears; and*

7           (2) *by striking “in a 1-parent family who is the*  
8 *parent” and inserting “who is the only parent or*  
9 *caretaker relative in the family”.*

10          (h) *EXTENSION TO MARRIED TEENS OF RULE THAT*  
11 *RECEIPT OF SUFFICIENT EDUCATION IS ENOUGH TO MEET*  
12 *WORK PARTICIPATION REQUIREMENTS.*—Section  
13 *407(c)(2)(C) (42 U.S.C. 607(c)(2)(C)) is amended—*

14           (1) *in the heading, by striking “TEEN HEAD OF*  
15 *HOUSEHOLD” and inserting “SINGLE TEEN HEAD OF*  
16 *HOUSEHOLD OR MARRIED TEEN”;* and

17           (2) *by striking “a single” and inserting “mar-*  
18 *ried or a”.*

19          (i) *CLARIFICATION OF NUMBER OF HOURS OF PAR-*  
20 *TICIPATION IN EDUCATION DIRECTLY RELATED TO EM-*  
21 *PLOYMENT THAT ARE REQUIRED IN ORDER FOR SINGLE*  
22 *TEEN HEAD OF HOUSEHOLD OR MARRIED TEEN TO BE*  
23 *DEEMED TO BE ENGAGED IN WORK.*—Section  
24 *407(c)(2)(C)(ii) (42 U.S.C. 607(c)(2)(C)(ii)) is amended by*  
25 *striking “at least” and all that follows through “subsection”*

1 and inserting “an average of at least 20 hours per week  
2 during the month”.

3 (j) *CLARIFICATION OF REFUSAL TO WORK FOR PUR-*  
4 *POSES OF WORK PENALTIES FOR INDIVIDUALS.*—Section  
5 407(e)(2) (42 U.S.C. 607(e)(2)) is amended by striking  
6 “work” and inserting “engage in work required in accord-  
7 ance with this section”.

8 (k) *CLARIFICATION OF REMOVAL OF TEEN PARENTS*  
9 *WITH RESPECT TO VOCATIONAL EDUCATION.*—Section  
10 407(c)(2) (42 U.S.C. 607(c)(2)) is amended—

11 (1) in subparagraph (C), by striking “, subject  
12 to subparagraph (D) of this paragraph,”; and

13 (2) by striking subparagraph (D) and inserting  
14 the following:

15 “(D) *NUMBER OF PERSONS THAT MAY BE*  
16 *TREATED AS ENGAGED IN WORK BY VIRTUE OF*  
17 *PARTICIPATION IN VOCATIONAL EDUCATION AC-*  
18 *TIVITIES.*—For purposes of determining monthly  
19 participation rates under paragraphs (1)(B)(i)  
20 and (2)(B) of subsection (b), not more than 20  
21 percent of individuals in all families and in 2-  
22 parent families (other than individuals in such  
23 families who are described in subparagraph (C))  
24 may be determined to be engaged in work in the

1           *State for a month by reason of participation in*  
2           *vocational educational training.”.*

3 **SEC. 5906. PROHIBITIONS; REQUIREMENTS.**

4           *(a) ELIMINATION OF REDUNDANT LANGUAGE; CLARI-*  
5 *FICATION OF HOME RESIDENCE REQUIREMENT.—Section*  
6 *408(a)(1) (42 U.S.C. 608(a)(1)) is amended to read as fol-*  
7 *lows:*

8           “(1) *NO ASSISTANCE FOR FAMILIES WITHOUT A*  
9 *MINOR CHILD.—A State to which a grant is made*  
10 *under section 403 shall not use any part of the grant*  
11 *to provide assistance to a family, unless the family*  
12 *includes a minor child who resides with the family*  
13 *(consistent with paragraph (10)) or a pregnant indi-*  
14 *vidual.”.*

15           *(b) CLARIFICATION OF TERMINOLOGY.—Section*  
16 *408(a)(3) (42 U.S.C. 608(a)(3)) is amended—*

17           (1) *by striking “leaves” the 1st, 3rd, and 4th*  
18 *places such term appears and inserting “ceases to re-*  
19 *ceive assistance under”; and*

20           (2) *by striking “the date the family leaves the*  
21 *program” the 2nd place such term appears and in-*  
22 *serting “such date”.*

23           *(c) ELIMINATION OF SPACE.—Section 408(a)(5)(A)(ii)*  
24 *(42 U.S.C. 608(a)(5)(A)(ii)) is amended by striking “DE-*  
25 *SCRIBED.—For” and inserting “DESCRIBED.—For”.*

1       (d) *CORRECTIONS TO 5-YEAR LIMIT ON ASSIST-*  
2 *ANCE.*—

3           (1) *CLARIFICATION OF LIMITATION ON HARDSHIP*  
4 *EXEMPTION.*—Section 408(a)(7)(C)(ii) (42 U.S.C.  
5 608(a)(7)(C)(ii)) is amended—

6           (A) by striking “The number” and inserting  
7 “The average monthly number”; and

8           (B) by inserting “during the fiscal year or  
9 the immediately preceding fiscal year (but not  
10 both), as the State may elect” before the period.

11          (2) *RESIDENCE EXCEPTION MADE MORE UNI-*  
12 *FORM AND EASIER TO ADMINISTER.*—Section  
13 408(a)(7)(D) (42 U.S.C. 608(a)(7)(D)) is amended to  
14 read as follows:

15           “(D) *DISREGARD OF MONTHS OF ASSIST-*  
16 *ANCE RECEIVED BY ADULT WHILE LIVING IN IN-*  
17 *DIAN COUNTRY OR AN ALASKAN NATIVE VILLAGE*  
18 *WITH 50 PERCENT UNEMPLOYMENT.*—

19           “(i) *IN GENERAL.*—In determining the  
20 number of months for which an adult has  
21 received assistance under a State or tribal  
22 program funded under this part, the State  
23 or tribe shall disregard any month during  
24 which the adult lived in Indian country or  
25 an Alaskan Native village if the most reli-

1           able data available with respect to the  
2           month (or a period including the month)  
3           indicate that at least 50 percent of the  
4           adults living in Indian country or in the  
5           village were not employed.

6                   “(ii) *INDIAN COUNTRY DEFINED.*—As  
7           used in clause (i), the term ‘Indian country’  
8           has the meaning given such term in section  
9           1151 of title 18, United States Code.”.

10           *(e) REINSTATEMENT OF DEEMING AND OTHER RULES*  
11           *APPLICABLE TO ALIENS WHO ENTERED THE UNITED*  
12           *STATES UNDER AFFIDAVITS OF SUPPORT FORMERLY*  
13           *USED.*—Section 408 (42 U.S.C. 608) is amended by strik-  
14           ing subsection (d) and inserting the following:

15                   “(d) *SPECIAL RULES RELATING TO TREATMENT OF*  
16           *CERTAIN ALIENS.*—For special rules relating to the treat-  
17           ment of certain aliens, see title IV of the Personal Respon-  
18           sibility and Work Opportunity Reconciliation Act of 1996.

19                   “(e) *SPECIAL RULES RELATING TO THE TREATMENT*  
20           *OF NON-213A ALIENS.*—The following rules shall apply if  
21           a State elects to take the income or resources of any sponsor  
22           of a non-213A alien into account in determining whether  
23           the alien is eligible for assistance under the State program  
24           funded under this part, or in determining the amount or  
25           types of such assistance to be provided to the alien:

1           “(1) *DEEMING OF SPONSOR’S INCOME AND RE-*  
2           *SOURCES.—For a period of 3 years after a non-213A*  
3           *alien enters the United States:*

4                   “(A) *INCOME DEEMING RULE.—The income*  
5                   *of any sponsor of the alien and of any spouse of*  
6                   *the sponsor is deemed to be income of the alien,*  
7                   *to the extent that the total amount of the income*  
8                   *exceeds the sum of—*

9                           “(i) *the lesser of—*

10                                   “(I) *20 percent of the total of any*  
11                                   *amounts received by the sponsor or*  
12                                   *any such spouse in the month as wages*  
13                                   *or salary or as net earnings from self-*  
14                                   *employment, plus the full amount of*  
15                                   *any costs incurred by the sponsor and*  
16                                   *any such spouse in producing self-em-*  
17                                   *ployment income in such month; or*

18                                   “(II) *\$175;*

19                                   “(ii) *the cash needs standard estab-*  
20                                   *lished by the State for purposes of determin-*  
21                                   *ing eligibility for assistance under the State*  
22                                   *program funded under this part for a fam-*  
23                                   *ily of the same size and composition as the*  
24                                   *sponsor and any other individuals living in*  
25                                   *the same household as the sponsor who are*

1           *claimed by the sponsor as dependents for*  
2           *purposes of determining the sponsor's Fed-*  
3           *eral personal income tax liability but whose*  
4           *needs are not taken into account in deter-*  
5           *mining whether the sponsor's family has*  
6           *met the cash needs standard;*

7           *“(iii) any amounts paid by the spon-*  
8           *sor or any such spouse to individuals not*  
9           *living in the household who are claimed by*  
10          *the sponsor as dependents for purposes of*  
11          *determining the sponsor's Federal personal*  
12          *income tax liability; and*

13          *“(iv) any payments of alimony or*  
14          *child support with respect to individuals*  
15          *not living in the household.*

16          *“(B) RESOURCE DEEMING RULE.—The re-*  
17          *sources of a sponsor of the alien and of any*  
18          *spouse of the sponsor are deemed to be resources*  
19          *of the alien to the extent that the aggregate value*  
20          *of the resources exceeds \$1,500.*

21          *“(C) SPONSORS OF MULTIPLE NON-213A*  
22          *ALIENS.—If a person is a sponsor of 2 or more*  
23          *non-213A aliens who are living in the same*  
24          *home, the income and resources of the sponsor*  
25          *and any spouse of the sponsor that would be*

1           *deemed income and resources of any such alien*  
2           *under subparagraph (A) shall be divided into a*  
3           *number of equal shares equal to the number of*  
4           *such aliens, and the State shall deem the income*  
5           *and resources of each such alien to include 1*  
6           *such share.*

7           “(2) *INELIGIBILITY OF NON-213A ALIENS SPON-*  
8           *SORED BY AGENCIES; EXCEPTION.—A non-213A alien*  
9           *whose sponsor is or was a public or private agency*  
10          *shall be ineligible for assistance under a State pro-*  
11          *gram funded under this part, during a period of 3*  
12          *years after the alien enters the United States, unless*  
13          *the State agency administering the program deter-*  
14          *mines that the sponsor either no longer exists or has*  
15          *become unable to meet the alien’s needs.*

16          “(3) *INFORMATION PROVISIONS.—*

17                 “(A) *DUTIES OF NON-213A ALIENS.—A non-*  
18                 *213A alien, as a condition of eligibility for as-*  
19                 *istance under a State program funded under*  
20                 *this part during the period of 3 years after the*  
21                 *alien enters the United States, shall be required*  
22                 *to provide to the State agency administering the*  
23                 *program—*

24                         “(i) *such information and documenta-*  
25                         *tion with respect to the alien’s sponsor as*

1           *may be necessary in order for the State*  
2           *agency to make any determination required*  
3           *under this subsection, and to obtain any co-*  
4           *operation from the sponsor necessary for*  
5           *any such determination; and*

6           *“(ii) such information and documenta-*  
7           *tion as the State agency may request and*  
8           *which the alien or the alien’s sponsor pro-*  
9           *vided in support of the alien’s immigration*  
10          *application.*

11          *“(B) DUTIES OF FEDERAL AGENCIES.—The*  
12          *Secretary shall enter into agreements with the*  
13          *Secretary of State and the Attorney General*  
14          *under which any information available to them*  
15          *and required in order to make any determina-*  
16          *tion under this subsection will be provided by*  
17          *them to the Secretary (who may, in turn, make*  
18          *the information available, upon request, to a*  
19          *concerned State agency).*

20          *“(4) NON-213A ALIEN DEFINED.—An alien is a*  
21          *non-213A alien for purposes of this subsection if the*  
22          *affidavit of support or similar agreement with respect*  
23          *to the alien that was executed by the sponsor of the*  
24          *alien’s entry into the United States was executed*

1       *other than pursuant to section 213A of the Immigra-*  
 2       *tion and Nationality Act.*

3               “(5) *INAPPLICABILITY TO ALIEN MINOR SPON-*  
 4       *SORED BY A PARENT.—This subsection shall not*  
 5       *apply to an alien who is a minor child if the sponsor*  
 6       *of the alien or any spouse of the sponsor is a parent*  
 7       *of the alien.*

8               “(6) *INAPPLICABILITY TO CERTAIN CATEGORIES*  
 9       *OF ALIENS.—This subsection shall not apply to an*  
 10       *alien who is—*

11               “(A) *admitted to the United States as a ref-*  
 12       *ugee under section 207 of the Immigration and*  
 13       *Nationality Act;*

14               “(B) *paroled into the United States under*  
 15       *section 212(d)(5) of such Act for a period of at*  
 16       *least 1 year; or*

17               “(C) *granted political asylum by the Attor-*  
 18       *ney General under section 208 of such Act.”.*

19       **SEC. 5907. PENALTIES.**

20               (a) *STATES GIVEN MORE TIME TO FILE QUARTERLY*  
 21       *REPORTS.—Section 409(a)(2)(A) (42 U.S.C. 609(a)(2)(A))*  
 22       *is amended by striking “1 month” and inserting “45 days”.*

23               (b) *TREATMENT OF SUPPORT PAYMENTS PASSED*  
 24       *THROUGH TO FAMILIES AS QUALIFIED STATE EXPENDI-*  
 25       *TURES.—Section 409(a)(7)(B)(i)(I)(aa) (42 U.S.C.*

1 609(a)(7)(B)(i)(I)(aa)) is amended by inserting “, includ-  
 2 ing any amount collected by the State as support pursuant  
 3 to a plan approved under part D, on behalf of a family  
 4 receiving assistance under the State program funded under  
 5 this part, that is distributed to the family under section  
 6 457(a)(1)(B) and disregarded in determining the eligibility  
 7 of the family for, and the amount of, such assistance” before  
 8 the period.

9 (c) *DISREGARD OF EXPENDITURES MADE TO RE-*  
 10 *PLACE PENALTY GRANT REDUCTIONS.*—Section  
 11 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)) is amended by  
 12 redesignating subclause (III) as subclause (IV) and by in-  
 13 serting after subclause (II) the following:

14 (III) *EXCLUSION OF AMOUNTS*  
 15 *EXPENDED TO REPLACE PENALTY*  
 16 *GRANT REDUCTIONS.*—Such term does  
 17 not include any amount expended in  
 18 order to comply with paragraph  
 19 (12).”.

20 (d) *TREATMENT OF FAMILIES OF CERTAIN ALIENS AS*  
 21 *ELIGIBLE FAMILIES.*—Section 409(a)(7)(B)(i)(IV) (42  
 22 U.S.C. 609(a)(7)(B)(i)(IV)), as so redesignated by sub-  
 23 section (c) of this section, is amended—

24 (1) by striking “and families” and inserting  
 25 “families”; and

1           (2) by striking “Act or section 402” and insert-  
2           ing “Act, and families of aliens lawfully present in  
3           the United States that would be eligible for such as-  
4           sistance but for the application of title IV”.

5           (e) *ELIMINATION OF MEANINGLESS LANGUAGE.*—Sec-  
6           tion 409(a)(7)(B)(ii) (42 U.S.C. 609(a)(7)(B)(ii)) is  
7           amended by striking “reduced (if appropriate) in accord-  
8           ance with subparagraph (C)(ii)”.

9           (f) *CLARIFICATION OF SOURCE OF DATA TO BE USED*  
10          *IN DETERMINING HISTORIC STATE EXPENDITURES.*—Sec-  
11          tion 409(a)(7)(B) (42 U.S.C. 609(a)(7)(B)) is amended by  
12          adding at the end the following:

13                                 “(v) *SOURCE OF DATA.*—In determin-  
14                                 ing expenditures by a State for fiscal years  
15                                 1994 and 1995, the Secretary shall use in-  
16                                 formation which was reported by the State  
17                                 on ACF Form 231 or (in the case of expend-  
18                                 itures under part F) ACF Form 331, avail-  
19                                 able as of the dates specified in clauses (ii)  
20                                 and (iii) of section 403(a)(1)(D).”.

21          (g) *CONFORMING TITLE IV—A PENALTIES TO TITLE*  
22          *IV—D PERFORMANCE-BASED STANDARDS.*—Section  
23          409(a)(8) (42 U.S.C. 609(a)(8)) is amended to read as fol-  
24          lows:

1           “(8) *NONCOMPLIANCE OF STATE CHILD SUPPORT*  
2           *ENFORCEMENT PROGRAM WITH REQUIREMENTS OF*  
3           *PART D.*—

4           “(A) *IN GENERAL.*—*If the Secretary finds,*  
5           *with respect to a State’s program under part D,*  
6           *in a fiscal year beginning on or after October 1,*  
7           *1997—*

8           “(i)(I) *on the basis of data submitted*  
9           *by a State pursuant to section 454(15)(B),*  
10           *or on the basis of the results of a review*  
11           *conducted under section 452(a)(4), that the*  
12           *State program failed to achieve the pater-*  
13           *nity establishment percentages (as defined*  
14           *in section 452(g)(2)), or to meet other per-*  
15           *formance measures that may be established*  
16           *by the Secretary;*

17           “(II) *on the basis of the results of an*  
18           *audit or audits conducted under section*  
19           *452(a)(4)(C)(i) that the State data submit-*  
20           *ted pursuant to section 454(15)(B) is in-*  
21           *complete or unreliable; or*

22           “(III) *on the basis of the results of an*  
23           *audit or audits conducted under section*  
24           *452(a)(4)(C) that a State failed to substan-*

1                    *tially comply with 1 or more of the require-*  
2                    *ments of part D; and*

3                    *“(ii) that, with respect to the succeed-*  
4                    *ing fiscal year—*

5                    *“(I) the State failed to take suffi-*  
6                    *cient corrective action to achieve the*  
7                    *appropriate performance levels or com-*  
8                    *pliance as described in subparagraph*  
9                    *(A)(i); or*

10                   *“(II) the data submitted by the*  
11                   *State pursuant to section 454(15)(B) is*  
12                   *incomplete or unreliable;*

13                   *the amounts otherwise payable to the State*  
14                   *under this part for quarters following the end of*  
15                   *such succeeding fiscal year, prior to quarters fol-*  
16                   *lowing the end of the first quarter throughout*  
17                   *which the State program has achieved the pater-*  
18                   *nity establishment percentages or other perform-*  
19                   *ance measures as described in subparagraph*  
20                   *(A)(i)(I), or is in substantial compliance with 1*  
21                   *or more of the requirements of part D as de-*  
22                   *scribed in subparagraph (A)(i)(III), as appro-*  
23                   *priate, shall be reduced by the percentage speci-*  
24                   *fied in subparagraph (B).*

1           “(B) *AMOUNT OF REDUCTIONS.*—*The reduc-*  
2           *tions required under subparagraph (A) shall*  
3           *be—*

4                   “(i) *not less than 1 nor more than 2*  
5                   *percent;*

6                   “(ii) *not less than 2 nor more than 3*  
7                   *percent, if the finding is the 2nd consecutive*  
8                   *finding made pursuant to subparagraph*  
9                   *(A); or*

10                   “(iii) *not less than 3 nor more than 5*  
11                   *percent, if the finding is the 3rd or a subse-*  
12                   *quent consecutive such finding.*

13           “(C) *DISREGARD OF NONCOMPLIANCE*  
14           *WHICH IS OF A TECHNICAL NATURE.*—*For pur-*  
15           *poses of this section and section 452(a)(4), a*  
16           *State determined as a result of an audit—*

17                   “(i) *to have failed to have substantially*  
18                   *complied with 1 or more of the requirements*  
19                   *of part D shall be determined to have*  
20                   *achieved substantial compliance only if the*  
21                   *Secretary determines that the extent of the*  
22                   *noncompliance is of a technical nature*  
23                   *which does not adversely affect the perform-*  
24                   *ance of the State’s program under part D;*  
25                   *or*

1           “(ii) to have submitted incomplete or  
2           unreliable data pursuant to section  
3           454(15)(B) shall be determined to have sub-  
4           mitted adequate data only if the Secretary  
5           determines that the extent of the incomplete-  
6           ness or unreliability of the data is of a tech-  
7           nical nature which does not adversely affect  
8           the determination of the level of the State’s  
9           paternity establishment percentages (as de-  
10          fined under section 452(g)(2)) or other per-  
11          formance measures that may be established  
12          by the Secretary.”.

13          (h) CORRECTION OF REFERENCE TO 5-YEAR LIMIT ON  
14 ASSISTANCE.—Section 409(a)(9) (42 U.S.C. 609(a)(9)) is  
15 amended by striking “408(a)(1)(B)” and inserting  
16 “408(a)(7)”.

17          (i) CORRECTION OF ERRORS IN PENALTY FOR FAIL-  
18 URE TO MEET MAINTENANCE OF EFFORT REQUIREMENT  
19 APPLICABLE TO THE CONTINGENCY FUND.—Section  
20 409(a)(10) (42 U.S.C. 609(a)(10)) is amended—

21                 (1) by striking “the expenditures under the State  
22                 program funded under this part for the fiscal year  
23                 (excluding any amounts made available by the Fed-  
24                 eral Government)” and inserting “the qualified State  
25                 expenditures (as defined in paragraph (7)(B)(i)

1       *(other than the expenditures described in subclause*  
 2       *(I)(bb) of that paragraph)) under the State program*  
 3       *funded under this part for the fiscal year”;*

4           (2) *by inserting “excluding any amount ex-*  
 5       *pended by the State for child care under subsection*  
 6       *(g) or (i) of section 402 (as in effect during fiscal*  
 7       *year 1994) for fiscal year 1994,” after “(as defined in*  
 8       *paragraph (7)(B)(iii) of this subsection),”;* and

9           (3) *by inserting “that the State has not remitted*  
 10       *under section 403(b)(6)” before the period.*

11       (j) *PENALTY FOR STATE FAILURE TO EXPEND ADDI-*  
 12       *TIONAL STATE FUNDS TO REPLACE GRANT REDUC-*  
 13       *TIONS.—Section 409(a)(12) (42 U.S.C. 609(a)(12)) is*  
 14       *amended—*

15           (1) *in the heading—*

16               (A) *by striking “FAILURE” and inserting*  
 17               *“REQUIREMENT”;* and

18               (B) *by striking “REDUCTIONS” and insert-*  
 19               *ing “REDUCTIONS; PENALTY FOR FAILURE TO DO*  
 20               *SO”;* and

21           (2) *by inserting “, and if the State fails to do*  
 22       *so, the Secretary may reduce the grant payable to the*  
 23       *State under section 403(a)(1) for the fiscal year that*  
 24       *follows such succeeding fiscal year by an amount*

1       *equal to not more than 2 percent of the State family*  
2       *assistance grant” before the period.*

3       *(k) ELIMINATION OF CERTAIN REASONABLE CAUSE*  
4       *EXCEPTIONS.—Section 409(b)(2) (42 U.S.C. 609(b)(2)) is*  
5       *amended by striking “(7) or (8)” and inserting “(6), (7),*  
6       *(8), (10), or (12)”.*

7       *(l) CLARIFICATION OF WHAT IT MEANS TO CORRECT*  
8       *A VIOLATION.—Section 409(c) (42 U.S.C. 609(c)) is amend-*  
9       *ed—*

10               *(1) in each of subparagraphs (A) and (B) of*  
11               *paragraph (1), by inserting “or discontinue, as ap-*  
12               *propriate,” after “correct”;*

13               *(2) in paragraph (2)—*

14                       *(A) in the heading, by inserting “OR DIS-*  
15                       *CONTINUING” after “CORRECTING”; and*

16                       *(B) by inserting “or discontinues, as appro-*  
17                       *priate” after “corrects”; and*

18               *(3) in paragraph (3)—*

19                       *(A) in the heading, by inserting “OR DIS-*  
20                       *CONTINUE” after “CORRECT”; and*

21                       *(B) by inserting “or discontinue, as appro-*  
22                       *priate,” before “the violation”.*

23       *(m) CERTAIN PENALTIES NOT AVOIDABLE THROUGH*  
24       *CORRECTIVE COMPLIANCE PLANS.—Section 409(c)(4) (42*  
25       *U.S.C. 609(c)(4)) is amended to read as follows:*

1           “(4) *INAPPLICABILITY TO CERTAIN PENALTIES.*—  
2           *This subsection shall not apply to the imposition of*  
3           *a penalty against a State under paragraph (6), (7),*  
4           *(8), (10), or (12) of subsection (a).”.*

5           (n) *FAILURE TO SATISFY MINIMUM PARTICIPATION*  
6 *RATES.*—*Section 409(a)(3) (42 U.S.C. 609(a)(3)) is*  
7 *amended—*

8           (1) *in subparagraph (A), by striking “not more*  
9           *than”; and*

10           (2) *in subparagraph (C), by inserting before the*  
11           *period the following: “or if the noncompliance is due*  
12           *to extraordinary circumstances such as a natural dis-*  
13           *aster or regional recession. The Secretary shall pro-*  
14           *vide a written report to Congress to justify any waiv-*  
15           *er or penalty reduction due to such extraordinary cir-*  
16           *cumstances”.*

17 **SEC. 5908. DATA COLLECTION AND REPORTING.**

18           *Section 411(a) (42 U.S.C. 611(a)) is amended—*

19           (1) *in paragraph (1)—*

20           (A) *in subparagraph (A)—*

21           (i) *by striking clause (ii) and inserting*  
22           *the following:*

23           “(ii) *Whether a child receiving such as-*  
24           *sistance or an adult in the family is receiv-*  
25           *ing—*

1                   “(I) *Federal disability insurance*  
2                   *benefits;*

3                   “(II) *benefits based on Federal*  
4                   *disability status;*

5                   “(III) *aid under a State plan ap-*  
6                   *proved under title XIV (as in effect*  
7                   *without regard to the amendment made*  
8                   *by section 301 of the Social Security*  
9                   *Amendments of 1972));*

10                  “(IV) *aid or assistance under a*  
11                  *State plan approved under title XVI*  
12                  *(as in effect without regard to such*  
13                  *amendment) by reason of being perma-*  
14                  *nently and totally disabled; or*

15                  “(V) *supplemental security in-*  
16                  *come benefits under title XVI (as in ef-*  
17                  *fect pursuant to such amendment) by*  
18                  *reason of disability.”;*

19                  *(ii) in clause (iv), by striking “young-*  
20                  *est child in” and inserting “head of”;*

21                  *(iii) in each of clauses (vii) and (viii),*  
22                  *by striking “status” and inserting “level”;*  
23                  *and*

24                  *(iv) by adding at the end the following:*

1                   “(xvii) With respect to each individual  
2                   in the family who has not attained 20 years  
3                   of age, whether the individual is a parent of  
4                   a child in the family.”; and

5                   (B) in subparagraph (B)—

6                   (i) in the heading, by striking “ESTI-  
7                   MATES” and inserting “SAMPLES”; and

8                   (ii) in clause (i), by striking “an esti-  
9                   mate which is obtained” and inserting  
10                  “disaggregated case record information on a  
11                  sample of families selected”; and

12                  (2) by redesignating paragraph (6) as para-  
13                  graph (7) and inserting after paragraph (5) the fol-  
14                  lowing:

15                  “(6) REPORT ON FAMILIES RECEIVING ASSIST-  
16                  ANCE.—The report required by paragraph (1) for a  
17                  fiscal quarter shall include for each month in the  
18                  quarter the number of families and individuals re-  
19                  ceiving assistance under the State program funded  
20                  under this part (including the number of 2-parent  
21                  and 1-parent families), and the total dollar value of  
22                  such assistance received by all families.”.

1 **SEC. 5909. DIRECT FUNDING AND ADMINISTRATION BY IN-**  
2 **DIAN TRIBES.**

3 (a) *PRORATING OF TRIBAL FAMILY ASSISTANCE*  
4 *GRANTS.*—Section 412(a)(1)(A) (42 U.S.C. 612(a)(1)(A))  
5 is amended by inserting “which shall be reduced for a fiscal  
6 year, on a pro rata basis for each quarter, in the case of  
7 a tribal family assistance plan approved during a fiscal  
8 year for which the plan is to be in effect,” before “and  
9 shall”.

10 (b) *TRIBAL OPTION TO OPERATE WORK ACTIVITIES*  
11 *PROGRAM.*—Section 412(a)(2)(A) (42 U.S.C. 612(a)(2)(A))  
12 is amended by striking “The Secretary” and all that follows  
13 through “2002” and inserting “For each of fiscal years  
14 1997, 1998, 1999, 2000, 2001, and 2002, the Secretary shall  
15 pay to each eligible Indian tribe that proposes to operate  
16 a program described in subparagraph (C)”.

17 (c) *DISCRETION OF TRIBES TO SELECT POPULATION*  
18 *TO BE SERVED BY TRIBAL WORK ACTIVITIES PROGRAM.*—  
19 Section 412(a)(2)(C) (42 U.S.C. 612(a)(2)(C)) is amended  
20 by striking “members of the Indian tribe” and inserting  
21 “such population and such service area or areas as the tribe  
22 specifies”.

23 (d) *REDUCTION OF APPROPRIATION FOR TRIBAL*  
24 *WORK ACTIVITIES PROGRAMS.*—Section 412(a)(2)(D) (42  
25 U.S.C. 612(a)(2)(D)) is amended by striking “\$7,638,474”  
26 and inserting “\$7,633,287”.



1           (b) *CORRECTION OF ERRONEOUSLY INDENTED PARA-*  
2 *GRAPH.—Section 413(e)(1) (42 U.S.C. 613(e)(1)) is amend-*  
3 *ed to read as follows:*

4                   “(1) *IN GENERAL.—The Secretary shall annually*  
5 *rank States to which grants are made under section*  
6 *403 based on the following ranking factors:*

7                           “(A) *ABSOLUTE OUT-OF-WEDLOCK RA-*  
8 *TIOS.—The ratio represented by—*

9                                   “(i) *the total number of out-of-wedlock*  
10 *births in families receiving assistance under*  
11 *the State program under this part in the*  
12 *State for the most recent year for which in-*  
13 *formation is available; over*

14                                   “(ii) *the total number of births in fam-*  
15 *ilies receiving assistance under the State*  
16 *program under this part in the State for the*  
17 *year.*

18                           “(B) *NET CHANGES IN THE OUT-OF-WED-*  
19 *LOCK RATIO.—The difference between the ratio*  
20 *described in subparagraph (A) with respect to a*  
21 *State for the most recent year for which such in-*  
22 *formation is available and the ratio with respect*  
23 *to the State for the immediately preceding*  
24 *year.”.*

1           (c) *FUNDING OF PRIOR AUTHORIZED DEMONSTRATIONS.*—Section 413(h)(1)(D) (42 U.S.C. 613(h)(1)(D)) is  
2           amended by striking “September 30, 1995” and inserting  
3           “August 22, 1996”.

4           (d) *CHILD POVERTY REPORTS.*—

5           (1) *DELAYED DUE DATE FOR INITIAL REPORT.*—  
6           Section 413(i)(1) (42 U.S.C. 613(i)(1)) is amended by  
7           striking “90 days after the date of the enactment of  
8           this part” and inserting “November 30, 1997”.

9           (2) *MODIFICATION OF FACTORS TO BE USED IN ESTABLISHING METHODOLOGY FOR USE IN DETERMINING CHILD POVERTY RATES.*—Section 413(i)(5)  
10           (42 U.S.C. 613(i)(5)) is amended by striking “the  
11           county-by-county” and inserting “, to the extent  
12           available, county-by-county”.

13           **SEC. 5911. REPORT ON DATA PROCESSING.**

14           Section 106(a)(1) of the Personal Responsibility and  
15           Work Opportunity Reconciliation Act of 1996 (Public Law  
16           104–193; 110 Stat. 2164) is amended by striking “(whether  
17           in effect before or after October 1, 1995)”.

18           **SEC. 5912. STUDY ON ALTERNATIVE OUTCOMES MEASURES.**

19           Section 107(a) of the Personal Responsibility and  
20           Work Opportunity Reconciliation Act of 1996 (Public Law  
21           104–193; 110 Stat. 2164) is amended by striking  
22           “409(a)(7)(C)” and inserting “408(a)(7)(C)”.

1 **SEC. 5913. LIMITATION ON PAYMENTS TO THE TERRI-**  
2 **TORIES.**

3 (a) *CERTAIN PAYMENTS TO BE DISREGARDED IN DE-*  
4 *TERMINING LIMITATION.*—Section 1108(a) (42 U.S.C.  
5 1308) is amended to read as follows:

6 “(a) *LIMITATION ON TOTAL PAYMENTS TO EACH TER-*  
7 *RITORY.*—

8 “(1) *IN GENERAL.*—Notwithstanding any other  
9 provision of this Act (except for paragraph (2) of this  
10 subsection), the total amount certified by the Sec-  
11 retary of Health and Human Services under titles I,  
12 X, XIV, and XVI, under parts A and E of title IV,  
13 and under subsection (b) of this section, for payment  
14 to any territory for a fiscal year shall not exceed the  
15 ceiling amount for the territory for the fiscal year.

16 “(2) *CERTAIN PAYMENTS DISREGARDED.*—Para-  
17 graph (1) of this subsection shall be applied without  
18 regard to any payment made under section 403(a)(2),  
19 403(a)(4), 406, or 413(f).”

20 (b) *CERTAIN CHILD CARE AND SOCIAL SERVICES EX-*  
21 *PENDITURES BY TERRITORIES TREATED AS IV–A EXPEND-*  
22 *ITURES FOR PURPOSES OF MATCHING GRANT.*—Section  
23 1108(b)(1)(A) (42 U.S.C. 1308(b)(1)(A)) is amended by in-  
24 serting “, including any amount paid to the State under  
25 part A of title IV that is transferred in accordance with

1 *section 404(d) and expended under the program to which*  
2 *transferred” before the semicolon.*

3 (c) *ELIMINATION OF DUPLICATIVE MAINTENANCE OF*  
4 *EFFORT REQUIREMENT.—Section 1108 (42 U.S.C. 1308)*  
5 *is amended by striking subsection (e).*

6 **SEC. 5914. CONFORMING AMENDMENTS TO THE SOCIAL SE-**  
7 **CURITY ACT.**

8 (a) *AMENDMENTS TO PART D OF TITLE IV.—*

9 (1) *CORRECTIONS TO DETERMINATION OF PATER-*  
10 *NITY ESTABLISHMENT PERCENTAGES.—Section 452*  
11 *(42 U.S.C. 652) is amended—*

12 (A) *in subsection (d)(3)(A), by striking all*  
13 *that follows “for purposes of” and inserting “sec-*  
14 *tion 409(a)(8), to achieve the paternity establish-*  
15 *ment percentages (as defined under section*  
16 *452(g)(2)) and other performance measures that*  
17 *may be established by the Secretary, and to sub-*  
18 *mit data under section 454(15)(B) that is com-*  
19 *plete and reliable, and to substantially comply*  
20 *with the requirements of this part; and”;* and

21 (B) *in subsection (g)(1), by striking “sec-*  
22 *tion 403(h)” and inserting “section 409(a)(8)”.*

23 (2) *ELIMINATION OF OBSOLETE LANGUAGE.—*  
24 *Section 108(c)(8)(C) of the Personal Responsibility*  
25 *and Work Opportunity Reconciliation Act of 1996*

1       *(Public Law 104–193; 110 Stat. 2165) is amended by*  
2       *inserting “and all that follows through ‘the best inter-*  
3       *ests of such child to do so’” before “and inserting”.*

4           (3) *INSERTION OF LANGUAGE INADVERTENTLY*  
5       *OMITTED.—Section 108(c)(13) of the Personal Re-*  
6       *sponsibility and Work Opportunity Reconciliation*  
7       *Act of 1996 (Public Law 104–193; 110 Stat. 2166) is*  
8       *amended by inserting “and inserting ‘pursuant to*  
9       *section 408(a)(3)’” before the period.*

10           (4) *ELIMINATION OF OBSOLETE CROSS REF-*  
11       *ERENCE.—Section 464(a)(1) (42 U.S.C. 664(a)(1)) is*  
12       *amended by striking “section 402(a)(26)” and insert-*  
13       *ing “section 408(a)(3)”.*

14       (b) *AMENDMENTS TO PART E OF TITLE IV.—Each of*  
15       *the following is amended by striking “June 1, 1995” each*  
16       *place such term appears and inserting “July 16, 1996”:*

17           (1) *Section 472(a) (42 U.S.C. 672(a)).*

18           (2) *Section 472(h) (42 U.S.C. 672(h)).*

19           (3) *Section 473(a)(2) (42 U.S.C. 673(a)(2)).*

20           (4) *Section 473(b) (42 U.S.C. 673(b)).*

21       **SEC. 5915. OTHER CONFORMING AMENDMENTS.**

22       (a) *ELIMINATION OF AMENDMENTS INCLUDED INAD-*  
23       *VERTENTLY.—Section 110(l) of the Personal Responsibility*  
24       *and Work Opportunity Reconciliation Act of 1996 (Public*  
25       *Law 104–193; 110 Stat. 2173) is amended—*

1           (1) by striking paragraphs (1), (4), (5), and (7);

2           (2) by redesignating paragraphs (2), (3), (6),  
3           and (8) as paragraphs (1), (2), (3), and (4), respec-  
4           tively; and

5           (3) by adding “and” at the end of paragraph  
6           (3), as so redesignated.

7           (b) *CORRECTION OF CITATION.*—Section 109(f) of the  
8           *Personal Responsibility and Work Opportunity Reconcili-*  
9           *ation Act of 1996 (Public Law 104–193; 110 Stat. 2177)*  
10          is amended by striking “93–186” and inserting “93–86”.

11          (c) *CORRECTION OF INTERNAL CROSS REFERENCE.*—  
12          Section 103(a)(1) of the *Personal Responsibility and Work*  
13          *Opportunity Reconciliation Act of 1996 (Public Law 104–*  
14          *193; 110 Stat. 2112)* is amended by striking “603(b)(2)”  
15          and inserting “603(b)”.

16          (d) *CORRECTION OF REFERENCES.*—Section 416 (42  
17          U.S.C. 616) is amended by striking “amendment made by  
18          section 2103 of the *Personal Responsibility and Work Op-*  
19          *portunity*” and inserting “amendments made by section  
20          103 of the *Personal Responsibility and Work Opportunity*  
21          *Reconciliation*”.

1 **SEC. 5916. MODIFICATIONS TO THE JOB OPPORTUNITIES**  
2 **FOR CERTAIN LOW-INCOME INDIVIDUALS**  
3 **PROGRAM.**

4 *Section 112(5) of the Personal Responsibility and*  
5 *Work Opportunity Reconciliation Act of 1996 (Public Law*  
6 *104–193; 110 Stat. 2177) is amended in each of subpara-*  
7 *graphs (A) and (B) by inserting “under” after “funded”.*

8 **SEC. 5917. DENIAL OF ASSISTANCE AND BENEFITS FOR**  
9 **DRUG-RELATED CONVICTIONS.**

10 *(a) EXTENSION OF CERTAIN REQUIREMENTS COORDI-*  
11 *NATED WITH DELAYED EFFECTIVE DATE FOR SUCCESSOR*  
12 *PROVISIONS.—Section 115(d)(2) of the Personal Respon-*  
13 *sibility and Work Opportunity Reconciliation Act of 1996*  
14 *(Public Law 104–193; 110 Stat. 2181) is amended by strik-*  
15 *ing “convictions” and inserting “a conviction if the convic-*  
16 *tion is for conduct”.*

17 *(b) IMMEDIATE EFFECTIVENESS OF PROVISIONS RE-*  
18 *LATING TO RESEARCH, EVALUATIONS, AND NATIONAL*  
19 *STUDIES.—Section 116(a) of such Act (Public Law 104–*  
20 *193; 110 Stat. 2181) is amended by adding at the end the*  
21 *following:*

22 *“(6) RESEARCH, EVALUATIONS, AND NATIONAL*  
23 *STUDIES.—Section 413 of the Social Security Act, as*  
24 *added by the amendment made by section 103(a) of*  
25 *this Act, shall take effect on the date of the enactment*  
26 *of this Act.”.*

1 **SEC. 5918. TRANSITION RULE.**

2 *Section 116 of the Personal Responsibility and Work*  
3 *Opportunity Reconciliation Act of 1996 (Public Law 104–*  
4 *193; 110 Stat. 2181) is amended—*

5 *(1) in subsection (a)(2), by inserting “(but sub-*  
6 *ject to subsection (b)(1)(A)(ii))” after “this section”;*  
7 *and*

8 *(2) in subsection (b)(1)(A)(ii), by striking “June*  
9 *30, 1997” and inserting “the later of June 30, 1997,*  
10 *or the day before the date described in subsection*  
11 *(a)(2)(B) of this section”.*

12 **SEC. 5919. PROTECTING VICTIMS OF FAMILY VIOLENCE.**

13 *(a) FINDINGS.—Congress finds that—*

14 *(1) the intent of Congress in amending part A*  
15 *of title IV of the Social Security Act (42 U.S.C. 601*  
16 *et seq.) in section 103(a) of the Personal Responsibil-*  
17 *ity and Work Opportunity Reconciliation Act of 1996*  
18 *(Public Law 104–193; 110 Stat 2112) was to allow*  
19 *States to take into account the effects of the epidemic*  
20 *of domestic violence in establishing their welfare pro-*  
21 *grams, by giving States the flexibility to grant indi-*  
22 *vidual, temporary waivers for good cause to victims*  
23 *of domestic violence who meet the criteria set forth in*  
24 *section 402(a)(7)(B) of the Social Security Act (42*  
25 *U.S.C. 602(a)(7)(B));*

1           (2) *the allowance of waivers under such sections*  
2 *was not intended to be limited by other, separate, and*  
3 *independent provisions of part A of title IV of the So-*  
4 *cial Security Act (42 U.S.C. 601 et seq.);*

5           (3) *under section 402(a)(7)(A)(iii) of such Act*  
6 *(42 U.S.C. 602(a)(7)(A)(iii)), requirements under the*  
7 *temporary assistance for needy families program*  
8 *under part A of title IV of such Act may, for good*  
9 *cause, be waived for so long as necessary; and*

10          (4) *good cause waivers granted pursuant to sec-*  
11 *tion 402(a)(7)(A)(iii) of such Act (42 U.S.C.*  
12 *602(a)(7)(A)(iii)) are intended to be temporary and*  
13 *directed only at particular program requirements*  
14 *when needed on an individual case-by-case basis, and*  
15 *are intended to facilitate the ability of victims of do-*  
16 *mestic violence to move forward and meet program*  
17 *requirements when safe and feasible without inter-*  
18 *ference by domestic violence.*

19          (b) *CLARIFICATION OF WAIVER PROVISIONS.—*

20           (1) *IN GENERAL.—Section 402(a)(7) (42 U.S.C.*  
21 *602(a)(7)) is amended by adding at the end the fol-*  
22 *lowing:*

23                   “(C) *NO NUMERICAL LIMITS.—In imple-*  
24 *menting this paragraph, a State shall not be*  
25 *subject to any numerical limitation in the grant-*

1           ing of good cause waivers under subparagraph  
2           (A)(iii).

3           “(D) *WAIVERED INDIVIDUALS NOT IN-*  
4           *CLUDED FOR PURPOSES OF CERTAIN OTHER*  
5           *PROVISIONS OF THIS PART.—Any individual to*  
6           *whom a good cause waiver of compliance with*  
7           *this Act has been granted in accordance with*  
8           *subparagraph (A)(iii) shall not be included for*  
9           *purposes of determining a State’s compliance*  
10           *with the participation rate requirements set*  
11           *forth in section 407, for purposes of applying the*  
12           *limitation described in section 408(a)(7)(C)(ii),*  
13           *or for purposes of determining whether to impose*  
14           *a penalty under paragraph (3), (5), or (9) of sec-*  
15           *tion 409(a).”.*

16           (2) *EFFECTIVE DATE.—The amendment made by*  
17           *paragraph (1) takes effect as if it had been included*  
18           *in the enactment of section 103(a) of the Personal Re-*  
19           *sponsibility and Work Opportunity Reconciliation*  
20           *Act of 1996 (Public Law 104–193; 110 Stat. 2112).*

21           (c) *FEDERAL PARENT LOCATOR SERVICE.—*

22           (1) *IN GENERAL.—Section 453 (42 U.S.C. 653),*  
23           *as amended by section 5938, is further amended—*

24           (A) *in subsection (b)(2)—*

1           (i) *in the matter preceding subpara-*  
2           *graph (A), by inserting “or that the health,*  
3           *safety, or liberty or a parent or child would*  
4           *by unreasonably put at risk by the disclo-*  
5           *sure of such information,” before “provided*  
6           *that”;*

7           (ii) *in subparagraph (A), by inserting*  
8           *“, that the health, safety, or liberty or a*  
9           *parent or child would by unreasonably put*  
10           *at risk by the disclosure of such informa-*  
11           *tion,” before “and that information”; and*

12           (iii) *in subparagraph (B)(i), by strik-*  
13           *ing “be harmful to the parent or the child”*  
14           *and inserting “place the health, safety, or*  
15           *liberty of a parent or child unreasonably at*  
16           *risk”; and*

17           (B) *in subsection (c)(2), by inserting “, or*  
18           *to serve as the initiating court in an action to*  
19           *seek and order,” before “against a noncustodial”.*

20           (2) *STATE PLAN.—Section 454(26) (42 U.S.C.*  
21           *654), as amended by section 5956, is further amend-*  
22           *ed—*

23           (A) *in subparagraph (C), by striking “re-*  
24           *sult in physical or emotional harm to the party*  
25           *or the child” and inserting “place the health,*

1           *safety, or liberty of a parent or child unreason-*  
2           *ably at risk”;*

3           *(B) in subparagraph (D), by striking “of*  
4           *domestic violence or child abuse against a party*  
5           *or the child and that the disclosure of such infor-*  
6           *mation could be harmful to the party or the*  
7           *child” and inserting “that the health, safety, or*  
8           *liberty of a parent or child would be unreason-*  
9           *ably put at risk by the disclosure of such infor-*  
10          *mation”;* and

11          *(C) in subparagraph (E), by striking “of*  
12          *domestic violence” and all that follows through*  
13          *the semicolon and inserting “that the health,*  
14          *safety, or liberty of a parent or child would be*  
15          *unreasonably put at risk by the disclosure of*  
16          *such information pursuant to section 453(b)(2),*  
17          *the court shall determine whether disclosure to*  
18          *any other person or persons of information re-*  
19          *ceived from the Secretary could place the health,*  
20          *safety, or liberty or a parent or child unreason-*  
21          *ably at risk (if the court determines that disclo-*  
22          *sure to any other person could be harmful, the*  
23          *court and its agents shall not make any such*  
24          *disclosure);”.*

1           (3) *EFFECTIVE DATE.*—*The amendments made*  
2           *by this subsection shall take effect 1 day after the ef-*  
3           *fective date described in section 5961(a).*

4 **SEC. 5920. EFFECTIVE DATES.**

5           (a) *AMENDMENTS TO PART A OF TITLE IV OF THE*  
6 *SOCIAL SECURITY ACT.*—*The amendments made by this*  
7 *chapter to a provision of part A of title IV of the Social*  
8 *Security Act shall take effect as if the amendments had been*  
9 *included in section 103(a) of the Personal Responsibility*  
10 *and Work Opportunity Reconciliation Act of 1996 at the*  
11 *time such section became law.*

12           (b) *AMENDMENTS TO PARTS D AND E OF TITLE IV*  
13 *OF THE SOCIAL SECURITY ACT.*—*The amendments made*  
14 *by section 5914 of this Act shall take effect as if the amend-*  
15 *ments had been included in section 108 of the Personal Re-*  
16 *sponsibility and Work Opportunity Reconciliation Act of*  
17 *1996 at the time such section 108 became law.*

18           (c) *AMENDMENTS TO OTHER AMENDATORY PROVI-*  
19 *SIONS.*—*The amendments made by section 5915(a) of this*  
20 *Act shall take effect as if the amendments had been included*  
21 *in section 110 of the Personal Responsibility and Work Op-*  
22 *portunity Reconciliation Act of 1996 at the time such sec-*  
23 *tion 110 became law.*

24           (d) *AMENDMENTS TO FREESTANDING PROVISIONS OF*  
25 *THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY*

1 *RECONCILIATION ACT OF 1996.—The amendments made by*  
2 *this chapter to a provision of the Personal Responsibility*  
3 *and Work Opportunity Reconciliation Act of 1996 that, as*  
4 *of July 1, 1997, will not have become part of another statute*  
5 *shall take effect as if the amendments had been included*  
6 *in the provision at the time the provision became law.*

7 **CHAPTER 2—SUPPLEMENTAL SECURITY**  
8 **INCOME**

9 **SEC. 5921. CONFORMING AND TECHNICAL AMENDMENTS**

10 **RELATING TO ELIGIBILITY RESTRICTIONS.**

11 (a) *DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS*  
12 *AND PROBATION AND PAROLE VIOLATORS.—Section*  
13 *1611(e)(6) (42 U.S.C. 1382(e)(6)) is amended by inserting*  
14 *“and section 1106(c) of this Act” after “of 1986”.*

15 (b) *TREATMENT OF PRISONERS.—Section*  
16 *1611(e)(1)(I)(i)(II) (42 U.S.C. 1382(e)(1)(I)(i)(II)) is*  
17 *amended by striking “inmate of the institution” and all*  
18 *that follows through “this subparagraph” and inserting*  
19 *“individual who receives in the month preceding the first*  
20 *month throughout which such individual is an inmate of*  
21 *the jail, prison, penal institution, or correctional facility*  
22 *that furnishes information respecting such individual pur-*  
23 *suant to subclause (I), or is confined in the institution (that*  
24 *so furnishes such information) as described in section*  
25 *202(x)(1)(A)(ii), a benefit under this title for such preced-*

1 *ing month, and who is determined by the Commissioner to*  
2 *be ineligible for benefits under this title by reason of con-*  
3 *finement based on the information provided by such institu-*  
4 *tion”.*

5 *(c) CORRECTION OF REFERENCE.—Section*  
6 *1611(e)(1)(I)(i)(I) (42 U.S.C. 1382(e)(1)(I)(i)(I)) is*  
7 *amended by striking “paragraph (1)” and inserting “this*  
8 *paragraph”.*

9 **SEC. 5922. CONFORMING AND TECHNICAL AMENDMENTS**  
10 **RELATING TO BENEFITS FOR DISABLED CHIL-**  
11 **DREN.**

12 *(a) ELIGIBILITY REDETERMINATIONS FOR CURRENT*  
13 *RECIPIENTS.—Section 211(d)(2)(A) of the Personal Re-*  
14 *sponsibility and Work Opportunity Reconciliation Act of*  
15 *1996 (42 U.S.C. 1382c note) is amended by striking “1*  
16 *year” and inserting “18 months”.*

17 *(b) ELIGIBILITY REDETERMINATIONS AND CONTINU-*  
18 *ING DISABILITY REVIEWS.—*

19 *(1) DISABILITY ELIGIBILITY REDETERMINATIONS*  
20 *REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18*  
21 *YEARS OF AGE.—Section 1614(a)(3)(H)(iii) (42*  
22 *U.S.C. 1382c(a)(3)(H)(iii)) is amended by striking*  
23 *subclauses (I) and (II) and all that follows and in-*  
24 *serting the following:*

1           “(I) by applying the criteria used in determin-  
2           ing initial eligibility for individuals who are age 18  
3           or older; and

4           “(II) either during the 1-year period beginning  
5           on the individual’s 18th birthday or, in lieu of a con-  
6           tinuing disability review, whenever the Commissioner  
7           determines that an individual’s case is subject to a re-  
8           determination under this clause.

9           With respect to any redetermination under this clause,  
10          paragraph (4) shall not apply.”.

11           (2) CONTINUING DISABILITY REVIEW REQUIRED  
12          FOR LOW BIRTH WEIGHT BABIES.—Section  
13          1614(a)(3)(H)(iv) (42 U.S.C. 1382c(a)(3)(H)(iv)) is  
14          amended—

15                   (A) in subclause (I), by striking “Not” and  
16                   inserting “Except as provided in subclause (VI),  
17                   not”; and

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

19           “(VI) Subclause (I) shall not apply in the case of an  
20           individual described in that subclause who, at the time of  
21           the individual’s initial disability determination, the Com-  
22           missioner determines has an impairment that is not ex-  
23           pected to improve within 12 months after the birth of that  
24           individual, and who the Commissioner schedules for a con-

1 *tinuing disability review at a date that is after the individ-*  
2 *ual attains 1 year of age.”.*

3 (c) *ADDITIONAL ACCOUNTABILITY REQUIREMENTS.—*  
4 *Section 1631(a)(2)(F) (42 U.S.C. 1383(a)(2)(F)) is amend-*  
5 *ed—*

6 (1) *in clause (ii)(III)(bb), by striking “the total*  
7 *amount” and all that follows through “1613(c)” and*  
8 *inserting “in any case in which the individual know-*  
9 *ingly misapplies benefits from such an account, the*  
10 *Commissioner shall reduce future benefits payable to*  
11 *such individual (or to such individual and his*  
12 *spouse) by an amount equal to the total amount of*  
13 *such benefits so misapplied”; and*

14 (2) *by striking clause (iii) and inserting the fol-*  
15 *lowing:*

16 *“(iii) The representative payee may deposit into the*  
17 *account established under clause (i) any other funds rep-*  
18 *resenting past due benefits under this title to the eligible*  
19 *individual, provided that the amount of such past due bene-*  
20 *fits is equal to or exceeds the maximum monthly benefit*  
21 *payable under this title to an eligible individual (including*  
22 *State supplementary payments made by the Commissioner*  
23 *pursuant to an agreement under section 1616 or section*  
24 *212(b) of Public Law 93–66).”.*

1           (d) *REDUCTION IN CASH BENEFITS PAYABLE TO IN-*  
2 *STITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS*  
3 *ARE COVERED BY PRIVATE INSURANCE.*—Section 1611(e)  
4 (42 U.S.C. 1382(e)) is amended—

5           (1) in paragraph (1)(B)—

6                   (A) in the matter preceding clause (i), by  
7 striking “hospital, extended care facility, nursing  
8 home, or intermediate care facility” and insert-  
9 ing “medical treatment facility”;

10                   (B) in clause (ii)—

11                           (i) in the matter preceding subclause  
12 (I), by striking “hospital, home or”; and

13                           (ii) in subclause (I), by striking “hos-  
14 pital, home, or”;

15                   (C) in clause (iii), by striking “hospital,  
16 home, or”; and

17                   (D) in the matter following clause (iii), by  
18 striking “hospital, extended care facility, nursing  
19 home, or intermediate care facility which is a  
20 ‘medical institution or nursing facility’ within  
21 the meaning of section 1917(c)” and inserting  
22 “medical treatment facility that provides services  
23 described in section 1917(c)(1)(C)”;

24           (2) in paragraph (1)(E)—

1           (A) in clause (i)(II), by striking “hospital,  
2           extended care facility, nursing home, or inter-  
3           mediate care facility” and inserting “medical  
4           treatment facility”; and

5           (B) in clause (iii), by striking “hospital, ex-  
6           tended care facility, nursing home, or intermedi-  
7           ate care facility” and inserting “medical treat-  
8           ment facility”;

9           (3) in paragraph (1)(G), in the matter preceding  
10          clause (i)—

11           (A) by striking “or which is a hospital, ex-  
12           tended care facility, nursing home, or intermedi-  
13           ate care” and inserting “or is in a medical  
14           treatment”; and

15           (B) by inserting “or, in the case of an indi-  
16           vidual who is a child under the age of 18, under  
17           any health insurance policy issued by a private  
18           provider of such insurance” after “title XIX”;  
19           and

20          (4) in paragraph (3)—

21           (A) by striking “same hospital, home, or fa-  
22           cility” and inserting “same medical treatment  
23           facility”; and

24           (B) by striking “same such hospital, home,  
25           or facility” and inserting “same such facility”.

1           (e) *CORRECTION OF U.S.C. CITATION.*—Section 211(c)  
2 *of the Personal Responsibility and Work Opportunity Rec-*  
3 *onciliation Act of 1996 (Public Law 104–193; 110 Stat.*  
4 *2189) is amended by striking “1382(a)(4)” and inserting*  
5 *“1382c(a)(4)”.*

6 **SEC. 5923. ADDITIONAL TECHNICAL AMENDMENTS TO**  
7 **TITLE XVI.**

8           Section 1615(d) (42 U.S.C. 1382d(d)) is amended—  
9           (1) *in the first sentence, by inserting a comma*  
10 *after “subsection (a)(1)”;* and  
11           (2) *in the last sentence, by striking “him” and*  
12 *inserting “the Commissioner”.*

13 **SEC. 5924. ADDITIONAL TECHNICAL AMENDMENTS RELAT-**  
14 **ING TO TITLE XVI.**

15           Section 1110(a)(3) (42 U.S.C. 1310(a)(3)) is amend-  
16 *ed—*  
17           (1) *by inserting “(or the Commissioner, with re-*  
18 *spect to any jointly financed cooperative agreement or*  
19 *grant concerning title XVI)” after “Secretary” the*  
20 *first place it appears; and*  
21           (2) *by inserting “(or the Commissioner, as ap-*  
22 *plicable)” after “Secretary” the second place it ap-*  
23 *pears.*

1 **SEC. 5925. EFFECTIVE DATES.**

2 (a) *IN GENERAL.*—*Except as provided in subsection*  
 3 *(b), the amendments made by this part shall take effect as*  
 4 *if included in the enactment of title II of the Personal Re-*  
 5 *sponsibility and Work Opportunity Reconciliation Act of*  
 6 *1996 (Public Law 104–193; 110 Stat. 2185).*

7 (b) *EXCEPTION.*—*The amendments made by section*  
 8 *5925 shall take effect as if included in the enactment of*  
 9 *the Social Security Independence and Program Improve-*  
 10 *ments Act of 1994 (Public Law 103–296; 108 Stat. 1464).*

11 **CHAPTER 3—CHILD SUPPORT**

12 **SEC. 5935. STATE OBLIGATION TO PROVIDE CHILD SUP-**  
 13 **PORT ENFORCEMENT SERVICES.**

14 (a) *INDIVIDUALS SUBJECT TO FEE FOR CHILD SUP-*  
 15 *PORT ENFORCEMENT SERVICES.*—*Section 454(6)(B) (42*  
 16 *U.S.C. 654(6)(B)) is amended by striking “individuals not*  
 17 *receiving assistance under any State program funded under*  
 18 *part A, which” and inserting “an individual, other than*  
 19 *an individual receiving assistance under a State program*  
 20 *funded under part A or E, or under a State plan approved*  
 21 *under title XIX, or who is required by the State to cooperate*  
 22 *with the State agency administering the program under*  
 23 *this part pursuant to subsection (l) or (m) of section 6 of*  
 24 *the Food Stamp Act of 1977, and”.*

25 (b) *CORRECTION OF REFERENCE.*—*Section*  
 26 *464(a)(2)(A) (42 U.S.C. 654(a)(2)(A)) is amended in the*

1 *first sentence by striking “section 454(6)” and inserting*  
2 *“section 454(4)(A)(ii)”.*

3 **SEC. 5936. DISTRIBUTION OF COLLECTED SUPPORT.**

4 *(a) CONTINUATION OF ASSIGNMENTS.—Section 457(b)*  
5 *(42 U.S.C. 657(b)) is amended—*

6 *(1) by striking “which were assigned” and in-*  
7 *serting “assigned”; and*

8 *(2) by striking “and which were in effect” and*  
9 *all that follows and inserting “and in effect on Sep-*  
10 *tember 30, 1997 (or such earlier date, on or after Au-*  
11 *gust 22, 1996, as the State may choose), shall remain*  
12 *assigned after such date.”.*

13 *(b) STATE OPTION FOR APPLICABILITY.—*

14 *(1) IN GENERAL.—Section 457(a) (42 U.S.C.*  
15 *657(a)) is amended by adding at the end the follow-*  
16 *ing:*

17 *“(6) STATE OPTION FOR APPLICABILITY.—Not-*  
18 *withstanding any other provision of this subsection, a*  
19 *State may elect to apply the rules described in clauses*  
20 *(i)(II), (ii)(II), and (v) of paragraph (2)(B) to sup-*  
21 *port arrearages collected on and after October 1,*  
22 *1998, and, if the State makes such an election, shall*  
23 *apply the provisions of this section, as in effect and*  
24 *applied on the day before the date of enactment of sec-*  
25 *tion 302 of the Personal Responsibility and Work Op-*

1 *portunity Act of 1996 (Public Law 104–193, 110*  
2 *Stat. 2200), other than subsection (b)(1) (as so in ef-*  
3 *fect), to amounts collected before October 1, 1998.”.*

4 (2) *CONFORMING AMENDMENTS.—Section*  
5 *408(a)(3)(A) (42 U.S.C. 608(a)(3)(A)) is amended—*

6 (A) *in clause (i), by inserting “(I)” after*

7 *“(i)”;*

8 (B) *in clause (ii)—*

9 (i) *by striking “(ii)” and inserting*

10 *“(II)”;* and

11 (ii) *by striking the period and insert-*  
12 *ing “; or”;* and

13 (C) *by adding at the end, the following:*

14 “(ii) *if the State elects to distribute*  
15 *collections under section 457(a)(6), the date*  
16 *the family ceases to receive assistance under*  
17 *the program, if the assignment is executed*  
18 *on or after October 1, 1998.”.*

19 (c) *DISTRIBUTION OF COLLECTIONS WITH RESPECT*  
20 *TO FAMILIES RECEIVING ASSISTANCE.—Section 457(a)(1)*

21 *(42 U.S.C. 657(a)(1)) is amended by adding at the end the*  
22 *following flush language:*

23 “*In no event shall the total of the amounts paid to*  
24 *the Federal Government and retained by the State ex-*

1        *ceed the total of the amounts that have been paid to*  
2        *the family as assistance by the State.”.*

3        *(d) FAMILIES UNDER CERTAIN AGREEMENTS.—Section*  
4        *tion 457(a)(4) (42 U.S.C. 657(a)(4)) is amended to read*  
5        *as follows:*

6                *“(4) FAMILIES UNDER CERTAIN AGREEMENTS.—*  
7        *In the case of an amount collected for a family in ac-*  
8        *cordance with a cooperative agreement under section*  
9        *454(33), distribute the amount so collected pursuant*  
10        *to the terms of the agreement.”.*

11        *(e) STUDY AND REPORT.—Section 457(a)(5) (42*  
12        *U.S.C. 657(a)(5)) is amended by striking “1998” and in-*  
13        *serting “1999”.*

14        *(f) CORRECTIONS OF REFERENCES.—Section*  
15        *457(a)(2)(B) (42 U.S.C. 657(a)(2)(B)) is amended—*

16                *(1) in clauses (i)(I) and (ii)(I)—*

17                        *(A) by striking “(other than subsection*  
18                        *(b)(1))” each place it appears; and*

19                        *(B) by inserting “(other than subsection*  
20                        *(b)(1) (as so in effect))” after “1996” each place*  
21                        *it appears; and*

22                *(2) in clause (ii)(II), by striking “paragraph*  
23                *(4)” and inserting “paragraph (5)”.*

24        *(g) CORRECTION OF TERRITORIAL MATCH.—Section*  
25        *457(c)(3)(A) (42 U.S.C. 657(c)(3)(A)) is amended by strik-*

1 *ing “the Federal medical assistance percentage (as defined*  
 2 *in section 1118)” and inserting “75 percent”.*

3 *(h) DEFINITIONS.—*

4 *(1) FEDERAL SHARE.—Section 457(c)(2) (42*  
 5 *U.S.C. 657(c)(2)) is amended by striking “collected”*  
 6 *the second place it appears and inserting “distrib-*  
 7 *uted”.*

8 *(2) FEDERAL MEDICAL ASSISTANCE PERCENT-*  
 9 *AGE.—Section 457(c)(3)(B) (42 U.S.C. 657(c)(3)(B))*  
 10 *is amended by striking “as in effect on September 30,*  
 11 *1996” and inserting “as such section was in effect on*  
 12 *September 30, 1995”.*

13 *(i) CONFORMING AMENDMENTS.—*

14 *(1) Section 464(a)(2)(A) (42 U.S.C.*  
 15 *664(a)(2)(A)) is amended, in the penultimate sen-*  
 16 *tence, by inserting “in accordance with section 457”*  
 17 *after “owed”.*

18 *(2) Section 466(a)(3)(B) (42 U.S.C.*  
 19 *666(a)(3)(B)) is amended by striking “457(b)(4) or*  
 20 *(d)(3)” and inserting “457”.*

21 **SEC. 5937. CIVIL PENALTIES RELATING TO STATE DIREC-**  
 22 **TORY OF NEW HIRES.**

23 *Section 453A (42 U.S.C. 653a) is amended—*

24 *(1) in subsection (d)—*

1           (A) in the matter preceding paragraph (1),  
2           by striking “shall be less than” and inserting  
3           “shall not exceed”; and

4           (B) in paragraph (1), by striking “\$25”  
5           and inserting “\$25 per failure to meet the re-  
6           quirements of this section with respect to a newly  
7           hired employee”; and

8           (2) in subsection (g)(2)(B), by striking “ex-  
9           tracts” and all that follows through “Labor” and in-  
10          serting “information”.

11 **SEC. 5938. FEDERAL PARENT LOCATOR SERVICE.**

12          (a) *IN GENERAL.*—Section 453 (42 U.S.C. 653) is  
13          amended—

14               (1) in subsection (a)—

15                       (A) by inserting “(1)” after “(a)”; and

16                       (B) by striking “to obtain” and all that fol-  
17                       lows through the period and inserting “for the  
18                       purposes specified in paragraphs (2) and (3).

19          “(2) For the purpose of establishing parentage, estab-  
20          lishing, setting the amount of, modifying, or enforcing child  
21          support obligations, the Federal Parent Locator Service  
22          shall obtain and transmit to any authorized person speci-  
23          fied in subsection (c)—

24                       “(A) information on, or facilitating the discovery  
25                       of, the location of any individual—

1           “(i) who is under an obligation to pay child  
2           support;

3           “(ii) against whom such an obligation is  
4           sought; or

5           “(iii) to whom such an obligation is owed,  
6           including the individual’s social security number (or  
7           numbers), most recent address, and the name, address,  
8           and employer identification number of the individ-  
9           ual’s employer;

10           “(B) information on the individual’s wages (or  
11           other income) from, and benefits of, employment (in-  
12           cluding rights to or enrollment in group health care  
13           coverage); and

14           “(C) information on the type, status, location,  
15           and amount of any assets of, or debts owed by or to,  
16           any such individual.

17           “(3) For the purpose of enforcing any Federal or State  
18           law with respect to the unlawful taking or restraint of a  
19           child, or making or enforcing a child custody or visitation  
20           determination, as defined in section 463(d)(1), the Federal  
21           Parent Locator Service shall be used to obtain and transmit  
22           the information specified in section 463(c) to the authorized  
23           persons specified in section 463(d)(2).”;

24           (2) by striking subsection (b) and inserting the  
25           following:

1       “(b)(1) Upon request, filed in accordance with sub-  
2 section (d), of any authorized person, as defined in sub-  
3 section (c) for the information described in subsection  
4 (a)(2), or of any authorized person, as defined in section  
5 463(d)(2) for the information described in section 463(c),  
6 the Secretary shall, notwithstanding any other provision of  
7 law, provide through the Federal Parent Locator Service  
8 such information to such person, if such information—

9               “(A) is contained in any files or records main-  
10 tained by the Secretary or by the Department of  
11 Health and Human Services; or

12               “(B) is not contained in such files or records, but  
13 can be obtained by the Secretary, under the authority  
14 conferred by subsection (e), from any other depart-  
15 ment, agency, or instrumentality of the United States  
16 or of any State,

17 and is not prohibited from disclosure under paragraph (2).

18       “(2) No information shall be disclosed to any person  
19 if the disclosure of such information would contravene the  
20 national policy or security interests of the United States  
21 or the confidentiality of census data. The Secretary shall  
22 give priority to requests made by any authorized person  
23 described in subsection (c)(1). No information shall be dis-  
24 closed to any person if the State has notified the Secretary  
25 that the State has reasonable evidence of domestic violence

1 *or child abuse and the disclosure of such information could*  
2 *be harmful to the custodial parent or the child of such par-*  
3 *ent, provided that—*

4           “(A) *in response to a request from an authorized*  
5 *person (as defined in subsection (c) and section*  
6 *463(d)(2)), the Secretary shall advise the authorized*  
7 *person that the Secretary has been notified that there*  
8 *is reasonable evidence of domestic violence or child*  
9 *abuse and that information can only be disclosed to*  
10 *a court or an agent of a court pursuant to subpara-*  
11 *graph (B); and*

12           “(B) *information may be disclosed to a court or*  
13 *an agent of a court described in subsection (c)(2) or*  
14 *section 463(d)(2)(B), if—*

15           “(i) *upon receipt of information from the*  
16 *Secretary, the court determines whether disclo-*  
17 *sure to any other person of that information*  
18 *could be harmful to the parent or the child; and*

19           “(ii) *if the court determines that disclosure*  
20 *of such information to any other person could be*  
21 *harmful, the court and its agents shall not make*  
22 *any such disclosure.*

23           “(3) *Information received or transmitted pursuant to*  
24 *this section shall be subject to the safeguard provisions con-*  
25 *tained in section 454(26).”; and*

1           (3) *in subsection (c)—*

2                   (A) *in paragraph (1), by striking “or to*  
3 *seek to enforce orders providing child custody or*  
4 *visitation rights”; and*

5                   (B) *in paragraph (2)—*

6                           (i) *by inserting “or to serve as the ini-*  
7 *tiating court in an action to seek an order”*  
8 *after “issue an order”; and*

9                           (ii) *by striking “or to issue an order*  
10 *against a resident parent for child custody*  
11 *or visitation rights”.*

12           (b) *USE OF THE FEDERAL PARENT LOCATOR SERV-*  
13 *ICE.—Section 463 (42 U.S.C. 663) is amended—*

14                   (1) *in subsection (a)—*

15                           (A) *in the matter preceding paragraph*  
16 *(1)—*

17                                   (i) *by striking “any State which is*  
18 *able and willing to do so,” and inserting*  
19 *“every State”; and*

20                                   (ii) *by striking “such State” and in-*  
21 *serting “each State”; and*

22                           (B) *in paragraph (2), by inserting “or visi-*  
23 *tation” after “custody”;*

24                   (2) *in subsection (b)(2), by inserting “or visita-*  
25 *tion” after “custody”;*

1           (3) in subsection (d)—

2                   (A) in paragraph (1), by inserting “or visi-  
3                   tation” after “custody”; and

4                   (B) in subparagraphs (A) and (B) of para-  
5                   graph (2), by inserting “or visitation” after  
6                   “custody” each place it appears;

7           (4) in subsection (f)(2), by inserting “or visita-  
8                   tion” after “custody”; and

9           (5) by striking “noncustodial” each place it ap-  
10           pears.

11 **SEC. 5939. ACCESS TO REGISTRY DATA FOR RESEARCH PUR-**

12                   **POSES.**

13           (a) *IN GENERAL.*—Section 453(j)(5) (42 U.S.C.  
14 653(j)(5)) is amended by inserting “data in each compo-  
15 nent of the Federal Parent Locator Service maintained  
16 under this section and to” before “information”.

17           (b) *CONFORMING AMENDMENTS.*—Section 453 (42  
18 U.S.C. 653) is amended—

19                   (1) in subsection (j)(3)(B), by striking “reg-  
20                   istries” and inserting “components”; and

21                   (2) in subsection (k)(2), by striking “subsection  
22                   (j)(3)” and inserting “section 453A(g)(2)”.

1 **SEC. 5940. COLLECTION AND USE OF SOCIAL SECURITY**  
2 **NUMBERS FOR USE IN CHILD SUPPORT EN-**  
3 **FORCEMENT.**

4 *Section 466(a)(13) (42 U.S.C. 666(a)(13)) is amend-*  
5 *ed—*

6 *(1) in subparagraph (A)—*

7 *(A) by striking “commercial”; and*

8 *(B) by inserting “recreational license,” after*  
9 *“occupational license,”; and*

10 *(2) in the matter following subparagraph (C), by*  
11 *inserting “to be used on the face of the document*  
12 *while the social security number is kept on file at the*  
13 *agency” after “other than the social security num-*  
14 *ber”.*

15 **SEC. 5941. ADOPTION OF UNIFORM STATE LAWS.**

16 *Section 466(f) (42 U.S.C. 666(f)) is amended by strik-*  
17 *ing “together” and all that follows and inserting “and as*  
18 *in effect on August 22, 1996, including any amendments*  
19 *officially adopted as of such date by the National Conference*  
20 *of Commissioners on Uniform State Laws.”.*

21 **SEC. 5942. STATE LAWS PROVIDING EXPEDITED PROCE-**  
22 **DURES.**

23 *Section 466(c) (42 U.S.C. 666(c)) is amended—*

24 *(1) in paragraph (1)—*

25 *(A) in subparagraph (E), by inserting “,*  
26 *part E,” after “part A”; and*

1           (B) in subparagraph (G), by inserting “any  
2           current support obligation and” after “to sat-  
3           isfy”; and

4           (2) in paragraph (2)(A)—

5                 (A) in clause (i), by striking “the tribunal  
6                 and”; and

7                 (B) in clause (ii)—

8                         (i) by striking “tribunal may” and in-  
9                         serting “court or administrative agency of  
10                        competent jurisdiction shall”; and

11                       (ii) by striking “filed with the tribu-  
12                       nal” and inserting “filed with the State  
13                       case registry”.

14 **SEC. 5943. VOLUNTARY PATERNITY ACKNOWLEDGEMENT.**

15           Section 466(a)(5)(C)(i) (42 U.S.C. 666(a)(5)(C)(i)) is  
16           amended by inserting “, or through the use of video or audio  
17           equipment,” after “orally”.

18 **SEC. 5944. CALCULATION OF PATERNITY ESTABLISHMENT**

19                         **PERCENTAGE.**

20           Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended,  
21           in the matter following subparagraph (C), by striking “sub-  
22           paragraph (A)” and inserting “subparagraphs (A) and  
23           (B)”.

1 **SEC. 5945. MEANS AVAILABLE FOR PROVISION OF TECH-**  
2 **NICAL ASSISTANCE AND OPERATION OF FED-**  
3 **ERAL PARENT LOCATOR SERVICE.**

4 (a) *TECHNICAL ASSISTANCE.*—Section 452(j) (42  
5 U.S.C. 652(j)), is amended, in the matter preceding para-  
6 graph (1), by striking “to cover costs incurred by the Sec-  
7 retary” and inserting “which shall be available for use by  
8 the Secretary, either directly or through grants, contracts,  
9 or interagency agreements,”.

10 (b) *OPERATION OF FEDERAL PARENT LOCATOR SERV-*  
11 *ICE.*—

12 (1) *MEANS AVAILABLE.*—Section 453(o) (42  
13 U.S.C. 653(o)) is amended—

14 (A) in the heading, by striking “RECOVERY  
15 OF COSTS” and inserting “USE OF SET-ASIDE  
16 FUNDS”; and

17 (B) by striking “to cover costs incurred by  
18 the Secretary” and inserting “which shall be  
19 available for use by the Secretary, either directly  
20 or through grants, contracts, or interagency  
21 agreements,”.

22 (2) *AVAILABILITY OF FUNDS.*—Section 453(o)  
23 (42 U.S.C. 653(o)) is amended by adding at the end  
24 the following: “Amounts appropriated under this sub-  
25 section for each of fiscal years 1997 through 2001  
26 shall remain available until expended.”.

1 **SEC. 5946. AUTHORITY TO COLLECT SUPPORT FROM FED-**  
2 **ERAL EMPLOYEES.**

3 (a) *RESPONSE TO NOTICE OR PROCESS.*—Section  
4 459(c)(2)(C) (42 U.S.C. 659(c)(2)(C)) is amended by strik-  
5 ing “respond to the order, process, or interrogatory” and  
6 inserting “withhold available sums in response to the order  
7 or process, or answer the interrogatory”.

8 (b) *MONEYS SUBJECT TO PROCESS.*—Section  
9 459(h)(1) (42 U.S.C. 659(h)(1)) is amended—

10 (1) in the matter preceding subparagraph (A)  
11 and in subparagraph (A)(i), by striking “paid or”  
12 each place it appears;

13 (2) in subparagraph (A)—

14 (A) in clause (ii)(V), by striking “and” at  
15 the end;

16 (B) in clause (iii)—

17 (i) by inserting “or payable” after  
18 “paid”; and

19 (ii) by striking “but” and inserting “;  
20 and”; and

21 (C) by inserting after clause (iii), the fol-  
22 lowing:

23 “(iv) benefits paid or payable under  
24 the Railroad Retirement System, but”; and

25 (3) in subparagraph (B)—



1 **SEC. 5950. CHILD SUPPORT ENFORCEMENT FOR INDIAN**  
2 **TRIBES.**

3 (a) *COOPERATIVE AGREEMENTS BY INDIAN TRIBES*  
4 *AND STATES FOR CHILD SUPPORT ENFORCEMENT.*—Sec-  
5 *tion 454(33) (42 U.S.C. 654(33)) is amended—*

6 (1) *by striking “and enforce support orders,*  
7 *and” and inserting “or enforce support orders, or”;*

8 (2) *by striking “guidelines established by such*  
9 *tribe or organization” and inserting “guidelines es-*  
10 *tablished or adopted by such tribe or organization”;*

11 (3) *by striking “funding collected” and inserting*  
12 *“collections”; and*

13 (4) *by striking “such funding” and inserting*  
14 *“such collections”.*

15 (b) *CORRECTION OF SUBSECTION DESIGNATION.*—Sec-  
16 *tion 455 (42 U.S.C. 655), is amended by redesignating sub-*  
17 *section (b), as added by section 375(b) of the Personal Re-*  
18 *sponsibility and Work Opportunity Reconciliation Act of*  
19 *1996 (Public Law 104–193, 110 Stat. 2256), as subsection*  
20 *(f).*

21 (c) *DIRECT GRANTS TO TRIBES.*—Section 455(f) (42  
22 U.S.C. 655(f)), as redesignated by subsection (b), is amend-  
23 *ed to read as follows:*

24 “(f) *The Secretary may make direct payments under*  
25 *this part to an Indian tribe or tribal organization that*  
26 *demonstrates to the satisfaction of the Secretary that it has*

1 *the capacity to operate a child support enforcement pro-*  
2 *gram meeting the objectives of this part, including establish-*  
3 *ment of paternity, establishment, modification, and enforce-*  
4 *ment of support orders, and location of absent parents. The*  
5 *Secretary shall promulgate regulations establishing the re-*  
6 *quirements which must be met by an Indian tribe or tribal*  
7 *organization to be eligible for a grant under this sub-*  
8 *section.”.*

9 **SEC. 5951. CONTINUATION OF RULES FOR DISTRIBUTION**  
10 **OF SUPPORT IN THE CASE OF A TITLE IV-E**  
11 **CHILD.**

12 *Section 457 (42 U.S.C. 657) is amended—*

13 *(1) in subsection (a), in the matter preceding*  
14 *paragraph (1), by striking “subsection (e)” and in-*  
15 *serting “subsections (e) and (f)”;* and

16 *(2) by adding at the end, the following:*

17 *“(f) Notwithstanding the preceding provisions of this*  
18 *section, amounts collected by a State as child support for*  
19 *months in any period on behalf of a child for whom a public*  
20 *agency is making foster care maintenance payments under*  
21 *part E—*

22 *“(1) shall be retained by the State to the extent*  
23 *necessary to reimburse it for the foster care mainte-*  
24 *nance payments made with respect to the child dur-*  
25 *ing such period (with appropriate reimbursement of*

1 *the Federal Government to the extent of its participa-*  
2 *tion in the financing);*

3 *“(2) shall be paid to the public agency respon-*  
4 *sible for supervising the placement of the child to the*  
5 *extent that the amounts collected exceed the foster care*  
6 *maintenance payments made with respect to the child*  
7 *during such period but not the amounts required by*  
8 *a court or administrative order to be paid as support*  
9 *on behalf of the child during such period; and the re-*  
10 *sponsible agency may use the payments in the man-*  
11 *ner it determines will serve the best interests of the*  
12 *child, including setting such payments aside for the*  
13 *child’s future needs or making all or a part thereof*  
14 *available to the person responsible for meeting the*  
15 *child’s day-to-day needs; and*

16 *“(3) shall be retained by the State, if any por-*  
17 *tion of the amounts collected remains after making*  
18 *the payments required under paragraphs (1) and (2),*  
19 *to the extent that such portion is necessary to reim-*  
20 *burse the State (with appropriate reimbursement to*  
21 *the Federal Government to the extent of its participa-*  
22 *tion in the financing) for any past foster care main-*  
23 *tenance payments (or payments of assistance under*  
24 *the State program funded under part A) which were*  
25 *made with respect to the child (and with respect to*

1       *which past collections have not previously been re-*  
 2       *tained);*  
 3       *and any balance shall be paid to the State agency respon-*  
 4       *sible for supervising the placement of the child, for use by*  
 5       *such agency in accordance with paragraph (2).”.*

6       **SEC. 5952. GOOD CAUSE IN FOSTER CARE AND FOOD STAMP**  
 7                                   **CASES.**

8           (a) *STATE PLAN.*—Section 454(4)(A)(i) (42 U.S.C.  
 9 654(4)(A)(i)) is amended—

10                   (1) *by striking “or” before “(III)”;* and

11                   (2) *by inserting “or (IV) cooperation is required*  
 12                   *pursuant to section 6(l)(1) of the Food Stamp Act of*  
 13                   *1977 (7 U.S.C. 2015(l)(1)),” after “title XIX,”.*

14           (b) *CONFORMING AMENDMENTS.*—Section 454(29) (42  
 15 U.S.C. 654(29)) is amended—

16                   (1) *in subparagraph (A)—*

17                                   (A) *in the matter preceding clause (i), by*  
 18                                   *striking “part A of this title or the State pro-*  
 19                                   *gram under title XIX” and inserting “part A,*  
 20                                   *the State program under part E, the State pro-*  
 21                                   *gram under title XIX, or the food stamp pro-*  
 22                                   *gram, as defined under section 3(h) of the Food*  
 23                                   *Stamp Act of 1977 (7 U.S.C. 2012(h)),”; and*

1           (B) by striking clauses (i) and (ii) and all  
2 that follows through the semicolon and inserting  
3 the following:

4           “(i) in the case of the State program  
5 funded under part A, the State program  
6 under part E, or the State program under  
7 title XIX shall, at the option of the State,  
8 be defined, taking into account the best in-  
9 terests of the child, and applied in each  
10 case, by the State agency administering  
11 such program; and

12           “(ii) in the case of the food stamp pro-  
13 gram, as defined under section 3(h) of the  
14 Food Stamp Act of 1977 (7 U.S.C.  
15 2012(h)), shall be defined and applied in  
16 each case under that program in accordance  
17 with section 6(l)(2) of the Food Stamp Act  
18 of 1977 (7 U.S.C. 2015(l)(2));”;

19           (2) in subparagraph (D), by striking “or the  
20 State program under title XIX” and inserting “the  
21 State program under part E, the State program  
22 under title XIX, or the food stamp program, as de-  
23 fined under section 3(h) of the Food Stamp Act of  
24 1977 (7 U.S.C. 2012(h));” and

1           (3) *in subparagraph (E), by striking “individ-*  
2 *ual,” and all that follows through “XIX,” and insert-*  
3 *ing “individual and the State agency administering*  
4 *the State program funded under part A, the State*  
5 *agency administering the State program under part*  
6 *E, the State agency administering the State program*  
7 *under title XIX, or the State agency administering*  
8 *the food stamp program, as defined under section 3(h)*  
9 *of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)),”.*

10 **SEC. 5953. DATE OF COLLECTION OF SUPPORT.**

11           *Section 454B(c)(1) (42 U.S.C. 654B(c)(1)) is amended*  
12 *by adding at the end the following: “The date of collection*  
13 *for amounts collected and distributed under this part is the*  
14 *date of receipt by the State disbursement unit, except that*  
15 *if current support is withheld by an employer in the month*  
16 *when due and is received by the State disbursement unit*  
17 *in a month other than the month when due, the date of*  
18 *withholding may be deemed to be the date of collection.”.*

19 **SEC. 5954. ADMINISTRATIVE ENFORCEMENT IN INTER-**  
20 **STATE CASES.**

21           (a) *PROCEDURES.*—*Section 466(a)(14) (42 U.S.C.*  
22 *666(a)(14)) is amended to read as follows:*

23                   “(14) *HIGH-VOLUME, AUTOMATED ADMINISTRA-*  
24 *TIVE ENFORCEMENT IN INTERSTATE CASES.*—

1           “(A) *IN GENERAL.—Procedures under*  
2           *which—*

3                   “(i) *the State shall use high-volume*  
4                   *automated administrative enforcement, to*  
5                   *the same extent as used for intrastate cases,*  
6                   *in response to a request made by another*  
7                   *State to enforce support orders, and shall*  
8                   *promptly report the results of such enforce-*  
9                   *ment procedure to the requesting State;*

10                   “(ii) *the State may, by electronic or*  
11                   *other means, transmit to another State a re-*  
12                   *quest for assistance in enforcing support or-*  
13                   *ders through high-volume, automated ad-*  
14                   *ministrative enforcement, which request—*

15                           “(I) *shall include such informa-*  
16                           *tion as will enable the State to which*  
17                           *the request is transmitted to compare*  
18                           *the information about the cases to the*  
19                           *information in the data bases of the*  
20                           *State; and*

21                           “(II) *shall constitute a certifi-*  
22                           *cation by the requesting State—*

23                                   “(aa) *of the amount of sup-*  
24                                   *port under an order the payment*  
25                                   *of which is in arrears; and*

1                   “(bb) that the requesting  
2                   State has complied with all proce-  
3                   dural due process requirements  
4                   applicable to each case;

5                   “(iii) if the State provides assistance  
6                   to another State pursuant to this paragraph  
7                   with respect to a case, neither State shall  
8                   consider the case to be transferred to the  
9                   caseload of such other State; and

10                  “(iv) the State shall maintain records  
11                  of—

12                         “(I) the number of such requests  
13                         for assistance received by the State;

14                         “(II) the number of cases for  
15                         which the State collected support in re-  
16                         sponse to such a request; and

17                         “(III) the amount of such collected  
18                         support.

19                   “(B) *HIGH-VOLUME AUTOMATED ADMINIS-*  
20                   *TRATIVE ENFORCEMENT.*—*In this part, the term*  
21                   *‘high-volume automated administrative enforce-*  
22                   *ment’ means the use of automatic data process-*  
23                   *ing to search various State data bases, including*  
24                   *license records, employment service data, and*  
25                   *State new hire registries, to determine whether*

1            *information is available regarding a parent who*  
2            *owes a child support obligation.”.*

3            *(b) INCENTIVE PAYMENTS.—Section 458(d) (42 U.S.C.*  
4            *658(d)) is amended by inserting “, including amounts col-*  
5            *lected under section 466(a)(14),” after “another State”.*

6            **SEC. 5955. WORK ORDERS FOR ARREARAGES.**

7            *Section 466(a)(15) (42 U.S.C. 666(a)(15)) is amended*  
8            *to read as follows:*

9            *“(15) PROCEDURES TO ENSURE THAT PERSONS*  
10            *OWING OVERDUE SUPPORT WORK OR HAVE A PLAN*  
11            *FOR PAYMENT OF SUCH SUPPORT.—Procedures under*  
12            *which the State has the authority, in any case in*  
13            *which an individual owes overdue support with re-*  
14            *spect to a child receiving assistance under a State*  
15            *program funded under part A, to issue an order or*  
16            *to request that a court or an administrative process*  
17            *established pursuant to State law issue an order that*  
18            *requires the individual to—*

19            *“(A) pay such support in accordance with*  
20            *a plan approved by the court, or, at the option*  
21            *of the State, a plan approved by the State agen-*  
22            *cy administering the State program under this*  
23            *part; or*

24            *“(B) if the individual is subject to such a*  
25            *plan and is not incapacitated, participate in*

1           *such work activities (as defined in section*  
2           *407(d)) as the court, or, at the option of the*  
3           *State, the State agency administering the State*  
4           *program under this part, deems appropriate.”.*

5   **SEC. 5956. ADDITIONAL TECHNICAL STATE PLAN AMEND-**  
6           **MENTS.**

7           *Section 454 (42 U.S.C. 654) is amended—*

8           (1) *in paragraph (8)—*

9                 (A) *in the matter preceding subparagraph*

10                (A)—

11                         (i) *by striking “noncustodial”; and*

12                         (ii) *by inserting “, for the purpose of*  
13                         *establishing parentage, establishing, setting*  
14                         *the amount of, modifying, or enforcing child*  
15                         *support obligations, or making or enforcing*  
16                         *a child custody or visitation determination,*  
17                         *as defined in section 463(d)(1)” after “pro-*  
18                         *vide that”;*

19                         (B) *in subparagraph (A), by striking the*  
20                         *comma and inserting a semicolon;*

21                         (C) *in subparagraph (B), by striking the*  
22                         *semicolon and inserting a comma; and*

23                         (D) *by inserting after subparagraph (B),*  
24                         *the following flush language:*

1       *“and shall, subject to the privacy safeguards required*  
2       *under paragraph (26), disclose only the information*  
3       *described in sections 453 and 463 to the authorized*  
4       *persons specified in such sections for the purposes*  
5       *specified in such sections;”;*

6             (2) *in paragraph (17)—*

7                 (A) *by striking “in the case of a State*  
8                 *which has” and inserting “provide that the State*  
9                 *will have”; and*

10                (B) *by inserting “and” after “section 453,”;*

11             *and*

12             (3) *in paragraph (26)—*

13                 (A) *in the matter preceding subparagraph*  
14                 (A), *by striking “will”;*

15                 (B) *in subparagraph (A)—*

16                         (i) *by inserting “, modify,” after “es-*  
17                         *tablish”, the second place it appears; and*

18                         (ii) *by inserting “, or to make or en-*  
19                         *force a child custody determination” after*  
20                         *“support”;*

21                 (C) *in subparagraph (B)—*

22                         (i) *by inserting “or the child” after “1*  
23                         *party”;*

24                         (ii) *by inserting “or the child” after*  
25                         *“former party”; and*

1                   (iii) by striking “and” at the end;

2                   (D) in subparagraph (C)—

3                   (i) by inserting “or the child” after “1  
4 party”;

5                   (ii) by striking “another party” and  
6 inserting “another person”;

7                   (iii) by inserting “to that person” after  
8 “release of the information”; and

9                   (iv) by striking “former party” and  
10 inserting “party or the child”; and

11                   (E) by adding at the end the following:

12                   “(D) in cases in which the prohibitions  
13 under subparagraphs (B) and (C) apply, the re-  
14 quirement to notify the Secretary, for purposes of  
15 section 453(b)(2), that the State has reasonable  
16 evidence of domestic violence or child abuse  
17 against a party or the child and that the disclo-  
18 sure of such information could be harmful to the  
19 party or the child; and

20                   “(E) procedures providing that when the  
21 Secretary discloses information about a parent  
22 or child to a State court or an agent of a State  
23 court described in section 453(c)(2) or  
24 463(d)(2)(B), and advises that court or agent  
25 that the Secretary has been notified that there is

1           *reasonable evidence of domestic violence or child*  
2           *abuse pursuant to section 453(b)(2), the court*  
3           *shall determine whether disclosure to any other*  
4           *person of information received from the Sec-*  
5           *retary could be harmful to the parent or child*  
6           *and, if the court determines that disclosure to*  
7           *any other person could be harmful, the court and*  
8           *its agents shall not make any such disclosure;”.*

9   **SEC. 5957. FEDERAL CASE REGISTRY OF CHILD SUPPORT**  
10                   **ORDERS.**

11           *Section 453(h) (42 U.S.C. 653(h)) is amended—*

12                   *(1) in paragraph (1), by inserting “and order”*  
13           *after “with respect to each case”; and*

14                   *(2) in paragraph (2)—*

15                           *(A) in the heading, by inserting “AND*  
16                   *ORDER” after “CASE”;*

17                           *(B) by inserting “or an order” after “with*  
18                   *respect to a case” and*

19                           *(C) by inserting “or order” after “and the*  
20                   *State or States which have the case”.*

21   **SEC. 5958. FULL FAITH AND CREDIT FOR CHILD SUPPORT**  
22                   **ORDERS.**

23           *Section 1738B(f) of title 28, United States Code, is*  
24   *amended—*

1           (1) in paragraph (4), by striking “a court may”  
2           and all that follows and inserting “a court having ju-  
3           risdiction over the parties shall issue a child support  
4           order, which must be recognized.”; and

5           (2) in paragraph (5), by inserting “under sub-  
6           section (d)” after “jurisdiction”.

7   **SEC. 5959. DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.**

8           (a) *DEFINITION OF STATE.*—Section 455(a)(3)(B) (42  
9   U.S.C. 655(a)(3)(B)) is amended—

10           (1) in clause (i)—

11                   (A) by inserting “or system described in  
12                   clause (iii)” after “each State”; and

13                   (B) by inserting “or system” after “the  
14                   State”; and

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

16           “(iii) For purposes of clause (i), a system described  
17           in this clause is a system that has been approved by the  
18           Secretary to receive enhanced funding pursuant to the Fam-  
19           ily Support Act of 1988 (Public Law 100–485; 102 Stat.  
20           2343) for the purpose of developing a system that meets the  
21           requirements of sections 454(16) (as in effect on and after  
22           September 30, 1995) and 454A, including systems that have  
23           received funding for such purpose pursuant to a waiver  
24           under section 1115(a).”.

1           (b) *TEMPORARY LIMITATION ON PAYMENTS.*—Section  
2 344(b)(2) of the *Personal Responsibility and Work Oppor-*  
3 *tunity Reconciliation Act of 1996 (42 U.S.C. 655 note)* is  
4 *amended—*

5           (1) *in subparagraph (B)—*

6                   (A) *by inserting “or a system described in*  
7 *subparagraph (C)” after “to a State”; and*

8                   (B) *by inserting “or system” after “for the*  
9 *State”; and*

10           (2) *in subparagraph (C), by striking “Act,” and*  
11 *all that follows and inserting “Act, and among sys-*  
12 *tems that have been approved by the Secretary to re-*  
13 *ceive enhanced funding pursuant to the Family Sup-*  
14 *port Act of 1988 (Public Law 100–485; 102 Stat.*  
15 *2343) for the purpose of developing a system that*  
16 *meets the requirements of sections 454(16) (as in ef-*  
17 *fect on and after September 30, 1995) and 454A, in-*  
18 *cluding systems that have received funding for such*  
19 *purpose pursuant to a waiver under section 1115(a),*  
20 *which shall take into account—*

21                   “(i) *the relative size of such State and*  
22 *system caseloads under part D of title IV of*  
23 *the Social Security Act; and*

1                   “(ii) the level of automation needed to  
2                   meet the automated data processing require-  
3                   ments of such part.”.

4 **SEC. 5960. ADDITIONAL TECHNICAL AMENDMENTS.**

5           (a) *ELIMINATION OF SURPLUSAGE.*—Section  
6 466(c)(1)(F) (42 U.S.C. 666(c)(1)(F)) is amended by strik-  
7 ing “of section 466”.

8           (b) *CORRECTION OF AMBIGUOUS AMENDMENT.*—Sec-  
9 tion 344(a)(1)(F) of the *Personal Responsibility and Work*  
10 *Opportunity Reconciliation Act of 1996 (Public Law 104–*  
11 *193; 110 Stat. 2234)* is amended by inserting “the first  
12 place such term appears” before “and all that follows”.

13           (c) *CORRECTION OF ERRONEOUSLY DRAFTED PROVI-*  
14 *SION.*—Section 215 of the *Department of Health and*  
15 *Human Services Appropriations Act, 1997, (as contained*  
16 *in section 101(e) of the Omnibus Consolidated Appropria-*  
17 *tions Act, 1997)* is amended to read as follows:

18           “SEC. 215. Sections 452(j) and 453(o) of the *Social*  
19 *Security Act (42 U.S.C. 652(j) and 653(o))*, as amended  
20 by section 345 of the *Personal Responsibility and Work Op-*  
21 *portunity Reconciliation Act of 1996 (Public Law 104–193;*  
22 *110 Stat. 2237)* are each amended by striking ‘section  
23 457(a)’ and inserting ‘a plan approved under this part’.  
24 Amounts available under such sections 452(j) and 453(o)

1 *shall be calculated as though the amendments made by this*  
2 *section were effective October 1, 1995.”.*

3 (d) *ELIMINATION OF SURPLUSAGE.*—Section  
4 *456(a)(2)(B) (42 U.S.C. 656(a)(2)(B)) is amended by strik-*  
5 *ing “, and” and inserting a period.*

6 (e) *CORRECTION OF DATE.*—Section *466(a)(1)(B) (42*  
7 *U.S.C. 666(a)(1)(B)) is amended by striking “October 1,*  
8 *1996” and inserting “January 1, 1994”.*

9 **SEC. 5961. EFFECTIVE DATE.**

10 (a) *IN GENERAL.*—*Except as provided in subsection*  
11 *(b), the amendments made by this chapter shall take effect*  
12 *as if included in the enactment of title III of the Personal*  
13 *Responsibility and Work Opportunity Reconciliation Act*  
14 *of 1996 (Public Law 104–193; 110 Stat. 2105).*

15 (b) *EXCEPTION.*—*The amendments made by section*  
16 *5936(b)(2) shall take effect as if the amendments had been*  
17 *included in the enactment of section 103(a) of the Personal*  
18 *Responsibility and Work Opportunity Reconciliation Act*  
19 *of 1996 (Public Law 104–193; 110 Stat. 2112).*

1 **CHAPTER 4—RESTRICTING WELFARE AND**  
2 **PUBLIC BENEFITS FOR ALIENS**

3 **Subchapter A—Eligibility for Federal Benefits**

4 **SEC. 5965. ALIEN ELIGIBILITY FOR FEDERAL BENEFITS:**  
5 **LIMITED APPLICATION TO MEDICARE AND**  
6 **BENEFITS UNDER THE RAILROAD RETIRE-**  
7 **MENT ACT.**

8 (a) *LIMITED APPLICATION TO MEDICARE.*—Section  
9 401(b) of the Personal Responsibility and Work Oppor-  
10 tunity Reconciliation Act of 1996 (8 U.S.C. 1611(b)) is  
11 amended by adding at the end the following:

12 “(3) Subsection (a) shall not apply to any bene-  
13 fit payable under title XVIII of the Social Security  
14 Act (relating to the medicare program) to an alien  
15 who is lawfully present in the United States as deter-  
16 mined by the Attorney General and, with respect to  
17 benefits payable under part A of such title, who was  
18 authorized to be employed with respect to any wages  
19 attributable to employment which are counted for  
20 purposes of eligibility for such benefits.”.

21 (b) *LIMITED APPLICATION TO BENEFITS UNDER THE*  
22 *RAILROAD RETIREMENT ACT.*—Section 401(b) of the Per-  
23 sonal Responsibility and Work Opportunity Reconciliation  
24 Act of 1996 (8 U.S.C. 1611(b)) (as amended by subsection  
25 (a)) is amended by inserting at the end the following:

1           “(4) Subsection (a) shall not apply to any bene-  
2           fit payable under the Railroad Retirement Act of  
3           1974 or the Railroad Unemployment Insurance Act to  
4           an alien who is lawfully present in the United States  
5           as determined by the Attorney General or to an alien  
6           residing outside the United States.”.

7 **SEC. 5966. EXCEPTIONS TO BENEFIT LIMITATIONS: COR-**  
8                   **RECTIONS TO REFERENCE CONCERNING**  
9                   **ALIENS WHOSE DEPORTATION IS WITHHELD.**

10           Sections 402(a)(2)(A)(i)(III), 402(a)(2)(A)(ii)(III),  
11 402(b)(2)(A)(iii), 403(b)(1)(C), 412(b)(1)(C), and 431(b)(5)  
12 of the Personal Responsibility and Work Opportunity Rec-  
13 onciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)(iii),  
14 1612(b)(2)(A)(iii), 1613(b)(1)(C), 1622(b)(1)(C), and  
15 1641(b)(5)) are each amended by striking “section 243(h)  
16 of such Act” each place it appears and inserting “section  
17 243(h) of such Act (as in effect immediately before the effec-  
18 tive date of section 307 of division C of Public Law 104–  
19 208) or section 241(b)(3) of such Act (as amended by section  
20 305(a) of division C of Public Law 104–208)”.

1 **SEC. 5967. VETERANS EXCEPTION: APPLICATION OF MINI-**  
2 **MUM ACTIVE DUTY SERVICE REQUIREMENT;**  
3 **EXTENSION TO UNREARRIED SURVIVING**  
4 **SPOUSE; EXPANDED DEFINITION OF VET-**  
5 **ERAN.**

6 (a) *APPLICATION OF MINIMUM ACTIVE DUTY SERVICE*  
7 *REQUIREMENT.*—Sections 402(a)(2)(C)(i), 402(b)(2)(C)(i),  
8 403(b)(2)(A), and 412(b)(3)(A) of the Personal Responsibility  
9 and Work Opportunity Reconciliation Act of 1996 (8  
10 U.S.C. 1612(a)(2)(C)(i), 1612(b)(2)(C)(i), 1613(b)(2)(A),  
11 and 1622(b)(3)(A)) are each amended by inserting “and  
12 who fulfills the minimum active-duty service requirements  
13 of section 5303A(d) of title 38, United States Code” after  
14 “alienage”.

15 (b) *EXCEPTION APPLICABLE TO UNREARRIED SUR-*  
16 *VIVING SPOUSE.*—Section 402(a)(2)(C)(iii),  
17 402(b)(2)(C)(iii), 403(b)(2)(C), and 412(b)(3)(C) of the  
18 Personal Responsibility and Work Opportunity Reconcili-  
19 ation Act of 1996 (8 U.S.C. 1612(a)(2)(C)(iii),  
20 1612(b)(2)(C)(iii), 1613(b)(2)(C), and 1622(b)(3)(C)) are  
21 each amended by inserting before the period “or the  
22 unremarried surviving spouse of an individual described in  
23 clause (i) or (ii) who is deceased if the marriage fulfills  
24 the requirements of section 1304 of title 38, United States  
25 Code”.

1           (c) *EXPANDED DEFINITION OF VETERAN.*—Sections  
2 402(a)(2)(C)(i), 402(b)(2)(C)(i), 403(b)(2)(A), and  
3 412(b)(3)(A) of the *Personal Responsibility and Work Op-*  
4 *portunity Reconciliation Act of 1996* (8 U.S.C.  
5 1612(a)(2)(C)(i), 1612(b)(2)(C)(i), 1613(b)(2)(A), and  
6 1622(b)(3)(A)) are each amended by inserting “, 1101, or  
7 1301, or as described in section 107” after “section 101”.

8 **SEC. 5968. CORRECTION OF REFERENCE CONCERNING**  
9 **CUBAN AND HAITIAN ENTRANTS.**

10           Section 403(d) of the *Personal Responsibility and*  
11 *Work Opportunity Reconciliation Act of 1996* (8 U.S.C.  
12 1613(d)) is amended—

13           (1) by striking “section 501 of the *Refugee*” and  
14           insert “section 501(a) of the *Refugee*”; and

15           (2) by striking “section 501(e)(2)” and inserting  
16           “section 501(e)”.

17 **SEC. 5969. NOTIFICATION CONCERNING ALIENS NOT LAW-**  
18 **FULLY PRESENT: CORRECTION OF TERMINOL-**  
19 **OGY.**

20           Section 1631(e)(9) of the *Social Security Act* (42  
21 U.S.C. 1383(e)(9)) and section 27 of the *United States*  
22 *Housing Act of 1937*, as added by section 404 of the *Per-*  
23 *sonal Responsibility and Work Opportunity Reconciliation*  
24 *Act of 1996*, are each amended by striking “unlawfully in

1 *the United States” each place it appears and inserting “not*  
2 *lawfully present in the United States”.*

3 **SEC. 5970. FREELY ASSOCIATED STATES: CONTRACTS AND**  
4 **LICENSES.**

5 *Sections 401(c)(2)(A) and 411(c)(2)(A) of the Personal*  
6 *Responsibility and Work Opportunity Reconciliation Act*  
7 *of 1996 (8 U.S.C. 1611(c)(2)(A) and 1621(c)(2)(A)) are*  
8 *each amended by inserting before the semicolon at the end*  
9 *“, or to a citizen of a freely associated state, if section 141*  
10 *of the applicable compact of free association approved in*  
11 *Public Law 99–239 or 99–658 (or a successor provision)*  
12 *is in effect”.*

13 **SEC. 5971. CONGRESSIONAL STATEMENT REGARDING BENE-**  
14 **FITS FOR HMONG AND OTHER HIGHLAND LAO**  
15 **VETERANS.**

16 *(a) FINDINGS.—The Congress makes the following*  
17 *findings:*

18 *(1) Hmong and other Highland Lao tribal peo-*  
19 *ples were recruited, armed, trained, and funded for*  
20 *military operations by the United States Department*  
21 *of Defense, Central Intelligence Agency, Department*  
22 *of State, and Agency for International Development*  
23 *to further United States national security interests*  
24 *during the Vietnam conflict.*

1           (2) *Hmong and other Highland Lao tribal forces*  
2           *sacrificed their own lives and saved the lives of Amer-*  
3           *ican military personnel by rescuing downed Amer-*  
4           *ican pilots and aircrews and by engaging and suc-*  
5           *cessfully fighting North Vietnamese troops.*

6           (3) *Thousands of Hmong and other Highland*  
7           *Lao veterans who fought in special guerilla units on*  
8           *behalf of the United States during the Vietnam con-*  
9           *flict, along with their families, have been lawfully ad-*  
10          *mitted to the United States in recent years.*

11          (4) *The Personal Responsibility and Work Op-*  
12          *portunity Reconciliation Act of 1996 (Public Law*  
13          *104–193), the new national welfare reform law, re-*  
14          *stricts certain welfare benefits for noncitizens of the*  
15          *United States and the exceptions for noncitizen veter-*  
16          *ans of the Armed Forces of the United States do not*  
17          *extend to Hmong veterans of the Vietnam conflict era,*  
18          *making Hmong veterans and their families receiving*  
19          *certain welfare benefits subject to restrictions despite*  
20          *their military service on behalf of the United States.*

21          (b) *CONGRESSIONAL STATEMENT.—It is the sense of*  
22          *the Congress that Hmong and other Highland Lao veterans*  
23          *who fought on behalf of the Armed Forces of the United*  
24          *States during the Vietnam conflict and have lawfully been*  
25          *admitted to the United States for permanent residence*

1 *should be considered veterans for purposes of continuing*  
 2 *certain welfare benefits consistent with the exceptions pro-*  
 3 *vided other noncitizen veterans under the Personal Respon-*  
 4 *sibility and Work Opportunity Reconciliation Act of 1996.*

5 ***Subchapter B—General Provisions***

6 ***SEC. 5972. DETERMINATION OF TREATMENT OF BATTERED***  
 7 ***ALIENS AS QUALIFIED ALIENS; INCLUSION OF***  
 8 ***ALIEN CHILD OF BATTERED PARENT AS***  
 9 ***QUALIFIED ALIEN.***

10 *(a) DETERMINATION OF STATUS BY AGENCY PROVID-*  
 11 *ING BENEFITS.—Section 431 of the Personal Responsibility*  
 12 *and Work Opportunity Reconciliation Act of 1996 (8*  
 13 *U.S.C. 1641) is amended in subsections (c)(1)(A) and*  
 14 *(c)(2)(A) by striking “Attorney General, which opinion is*  
 15 *not subject to review by any court)” each place it appears*  
 16 *and inserting “agency providing such benefits)”.*

17 *(b) GUIDANCE ISSUED BY ATTORNEY GENERAL.—Sec-*  
 18 *tion 431(c) of the Personal Responsibility and Work Oppor-*  
 19 *tunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)) is*  
 20 *amended by adding at the end the following new undesig-*  
 21 *nated paragraph:*

22 *“After consultation with the Secretaries of Health and*  
 23 *Human Services, Agriculture, and Housing and Urban De-*  
 24 *velopment, the Commissioner of Social Security, and with*  
 25 *the heads of such Federal agencies administering benefits*

1 *as the Attorney General considers appropriate, the Attorney*  
2 *General shall issue guidance (in the Attorney General’s sole*  
3 *and unreviewable discretion) for purposes of this subsection*  
4 *and section 421(f), concerning the meaning of the terms*  
5 *‘battery’ and ‘extreme cruelty’, and the standards and meth-*  
6 *ods to be used for determining whether a substantial connec-*  
7 *tion exists between battery or cruelty suffered and an indi-*  
8 *vidual’s need for benefits under a specific Federal, State,*  
9 *or local program.”.*

10 *(c) INCLUSION OF ALIEN CHILD OF BATTERED PAR-*  
11 *ENT AS QUALIFIED ALIEN.—Section 431(c) of the Personal*  
12 *Responsibility and Work Opportunity Reconciliation Act*  
13 *of 1996 (8 U.S.C. 1641(c)) is amended—*

14 *(1) at the end of paragraph (1)(B)(iv) by strik-*  
15 *ing “or”;*

16 *(2) at the end of paragraph (2)(B) by striking*  
17 *the period and inserting “; or”; and*

18 *(3) by inserting after paragraph (2)(B) and be-*  
19 *fore the last sentence of such subsection the following*  
20 *new paragraph:*

21 *“(3) an alien child who—*

22 *“(A) resides in the same household as a par-*  
23 *ent who has been battered or subjected to extreme*  
24 *cruelty in the United States by that parent’s*  
25 *spouse or by a member of the spouse’s family re-*

1           *siding in the same household as the parent and*  
2           *the spouse consented or acquiesced to such bat-*  
3           *tery or cruelty, but only if (in the opinion of the*  
4           *agency providing such benefits) there is a sub-*  
5           *stantial connection between such battery or cru-*  
6           *elty and the need for the benefits to be provided;*  
7           *and*

8                     *“(B) who meets the requirement of subpara-*  
9                     *graph (B) of paragraph (1).”.*

10           *(d) INCLUSION OF ALIEN CHILD OF BATTERED PAR-*  
11           *ENT UNDER SPECIAL RULE FOR ATTRIBUTION OF IN-*  
12           *COME.—Section 421(f)(1)(A) of the Personal Responsibility*  
13           *and Work Opportunity Reconciliation Act of 1996 (8*  
14           *U.S.C. 1631(f)(1)(A)) is amended—*

15                     *(1) at the end of clause (i) by striking “or”; and*

16                     *(2) by striking “and the battery or cruelty de-*  
17           *scribed in clause (i) or (ii)” and inserting “or (iii)*  
18           *the alien is a child whose parent (who resides in the*  
19           *same household as the alien child) has been battered*  
20           *or subjected to extreme cruelty in the United States*  
21           *by that parent’s spouse, or by a member of the*  
22           *spouse’s family residing in the same household as the*  
23           *parent and the spouse consented to, or acquiesced in,*  
24           *such battery or cruelty, and the battery or cruelty de-*  
25           *scribed in clause (i), (ii), or (iii).”.*

1 **SEC. 5973. VERIFICATION OF ELIGIBILITY FOR BENEFITS.**

2       (a) *REGULATIONS AND GUIDANCE.*—Section 432(a) of  
3 *the Personal Responsibility and Work Opportunity Rec-*  
4 *onciliation Act of 1996 (8 U.S.C. 1642(a)) is amended—*

5           (1) *by inserting at the end of paragraph (1) the*  
6 *following: “Not later than 90 days after the date of*  
7 *the enactment of the Welfare Reform Technical Cor-*  
8 *rections Act of 1997, the Attorney General of the*  
9 *United States, after consultation with the Secretary of*  
10 *Health and Human Services, shall issue interim ver-*  
11 *ification guidance.”; and*

12           (2) *by adding after paragraph (2) the following*  
13 *new paragraph:*

14       “(3) *Not later than 90 days after the date of the enact-*  
15 *ment of the Welfare Reform Technical Corrections Act of*  
16 *1997, the Attorney General shall promulgate regulations*  
17 *which set forth the procedures by which a State or local*  
18 *government can verify whether an alien applying for a*  
19 *State or local public benefit is a qualified alien, a non-*  
20 *immigrant under the Immigration and Nationality Act, or*  
21 *an alien paroled into the United States under section*  
22 *212(d)(5) of the Immigration and Nationality Act for less*  
23 *than 1 year, for purposes of determining whether the alien*  
24 *is ineligible for benefits under section 411 of this Act.”.*

25       (b) *DISCLOSURE OF INFORMATION FOR VERIFICA-*  
26 *TION.*—Section 384(b) of the *Illegal Immigration Reform*

1 *and Immigrant Responsibility Act of 1996 (division C of*  
2 *Public Law 104–208) is amended by adding after para-*  
3 *graph (4) the following new paragraph:*

4           “(5) *The Attorney General is authorized to dis-*  
5 *close information, to Federal, State, and local public*  
6 *and private agencies providing benefits, to be used*  
7 *solely in making determinations of eligibility for ben-*  
8 *efits pursuant to section 431(c) of the Personal Re-*  
9 *sponsibility and Work Opportunity Reconciliation*  
10 *Act of 1996.”.*

11 **SEC. 5974. QUALIFYING QUARTERS: DISCLOSURE OF QUAR-**  
12 **TERS OF COVERAGE INFORMATION; CORREC-**  
13 **TION TO ASSURE THAT CREDITING APPLIES**  
14 **TO ALL QUARTERS EARNED BY PARENTS BE-**  
15 **FORE CHILD IS 18.**

16           (a) *DISCLOSURE OF QUARTERS OF COVERAGE INFOR-*  
17 *MATION.—Section 435 of the Personal Responsibility and*  
18 *Work Opportunity Reconciliation Act of 1996 (8 U.S.C.*  
19 *1645) is amended by adding at the end the following: “Not-*  
20 *withstanding section 6103 of the Internal Revenue Code of*  
21 *1986, the Commissioner of Social Security is authorized to*  
22 *disclose quarters of coverage information concerning an*  
23 *alien and an alien’s spouse or parents to a government*  
24 *agency for the purposes of this title.”.*

1       (b) *CORRECTION TO ASSURE THAT CREDITING AP-*  
2 *PLIES TO ALL QUARTERS EARNED BY PARENTS BEFORE*  
3 *CHILD IS 18.*—Section 435(1) of the *Personal Responsibility and Work Opportunity Reconciliation Act of 1996* (8  
4 *U.S.C. 1645(1))* is amended by striking “while the alien  
5 was under age 18,” and inserting “before the date on which  
6 the alien attains age 18,”.

8 **SEC. 5975. STATUTORY CONSTRUCTION: BENEFIT ELIGI-**  
9 **BILITY LIMITATIONS APPLICABLE ONLY WITH**  
10 **RESPECT TO ALIENS PRESENT IN THE UNIT-**  
11 **ED STATES.**

12       Section 433 of the *Personal Responsibility and Work*  
13 *Opportunity Reconciliation Act of 1996* (8 *U.S.C. 1643*)  
14 is amended—

15           (1) by redesignated subsections (b) and (c) as  
16 subsections (c) and (d); and

17           (2) by adding after subsection (a) the following  
18 new subsection:

19       “(b) **BENEFIT ELIGIBILITY LIMITATIONS APPLICABLE**  
20 **ONLY WITH RESPECT TO ALIENS PRESENT IN THE UNITED**  
21 **STATES.**—Notwithstanding any other provision of this title,  
22 the limitations on eligibility for benefits under this title  
23 shall not apply to eligibility for benefits of aliens who are  
24 not residing, or present, in the United States with respect  
25 to—

1           “(1) wages, pensions, annuities, and other  
2           earned payments to which an alien is entitled result-  
3           ing from employment by, or on behalf of, a Federal,  
4           State, or local government agency which was not pro-  
5           hibited during the period of such employment or serv-  
6           ice under section 274A or other applicable provision  
7           of the Immigration and Nationality Act; or

8           “(2) benefits under laws administered by the  
9           Secretary of Veterans Affairs.”.

10       **Subchapter C—Miscellaneous Clerical and**  
11       **Technical Amendments; Effective Date**

12       **SEC. 5976. CORRECTING MISCELLANEOUS CLERICAL AND**  
13       **TECHNICAL ERRORS.**

14       (a) INFORMATION REPORTING UNDER TITLE IV OF  
15       THE SOCIAL SECURITY ACT.—Effective July 1, 1997, sec-  
16       tion 408 of the Social Security Act (42 U.S.C. 608), as  
17       amended by section 5903, and as in effect pursuant to sec-  
18       tion 116 of the Personal Responsibility and Work Oppor-  
19       tunity Reconciliation Act of 1996, and as amended by sec-  
20       tion 5906(e) of this Act, is amended by adding at the end  
21       the following new subsection:

22       “(f) STATE REQUIRED TO PROVIDE CERTAIN INFOR-  
23       MATION.—Each State to which a grant is made under sec-  
24       tion 403 shall, at least 4 times annually and upon request  
25       of the Immigration and Naturalization Service, furnish the

1 *Immigration and Naturalization Service with the name*  
2 *and address of, and other identifying information on, any*  
3 *individual who the State knows is not lawfully present in*  
4 *the United States.”.*

5 (b) *MISCELLANEOUS CLERICAL AND TECHNICAL COR-*  
6 *RECTIONS.—*

7 (1) *Section 411(c)(3) of the Personal Respon-*  
8 *sibility and Work Opportunity Reconciliation Act of*  
9 *1996 (8 U.S.C. 1621(c)(3)) is amended by striking*  
10 *“4001(c)” and inserting “401(c)”.*

11 (2) *Section 422(a) of the Personal Responsibility*  
12 *and Work Opportunity Reconciliation Act of 1996 (8*  
13 *U.S.C. 1632(a)) is amended by striking “benefits (as*  
14 *defined in section 412(c)),” and inserting “benefits,”.*

15 (3) *Section 412(b)(1)(C) of the Personal Respon-*  
16 *sibility and Work Opportunity Reconciliation Act of*  
17 *1996 (8 U.S.C. 1622(b)(1)(C)) is amended by striking*  
18 *“with-holding” and inserting “withholding”.*

19 (4) *The subtitle heading for subtitle D of title IV*  
20 *of the Personal Responsibility and Work Opportunity*  
21 *Reconciliation Act of 1996 is amended to read as fol-*  
22 *lows:*

23 ***“Subtitle D—General Provisions”.***

24 (5) *The subtitle heading for subtitle F of title IV*  
25 *of the Personal Responsibility and Work Opportunity*

1        *Reconciliation Act of 1996 is amended to read as fol-*  
2        *lows:*

3        **“Subtitle F—Earned Income Credit**  
4        ***Denied to Unauthorized Employ-***  
5        ***ees”.***

6                *(6) Section 431(c)(2)(B) of the Personal Respon-*  
7        *sibility and Work Opportunity Reconciliation Act of*  
8        *1996 (8 U.S.C. 1641(c)(2)(B)) is amended by striking*  
9        *“clause (ii) of subparagraph (A)” and inserting “sub-*  
10        *paragraph (B) of paragraph (1)”.*

11                *(7) Section 431(c)(1)(B) of the Personal Respon-*  
12        *sibility and Work Opportunity Reconciliation Act of*  
13        *1996 (8 U.S.C. 1641(c)(1)(B)) is amended—*

14                        *(A) in clause (iii) by striking “, or” and*  
15                        *inserting “(as in effect prior to April 1, 1997),”;*  
16                        *and*

17                        *(B) by adding after clause (iv) the following*  
18        *new clause:*

19                                *“(v) cancellation of removal pursuant*  
20                                *to section 240A(b)(2) of such Act;”.*

21        **SEC. 5977. EFFECTIVE DATE.**

22        *Except as otherwise provided, the amendments made*  
23        *by this chapter shall be effective as if included in the enact-*  
24        *ment of title IV of the Personal Responsibility and Work*  
25        *Opportunity Reconciliation Act of 1996.*

1           **CHAPTER 5—CHILD PROTECTION**

2   **SEC. 5981. CONFORMING AND TECHNICAL AMENDMENTS**

3                   **RELATING TO CHILD PROTECTION.**

4           (a) *METHODS PERMITTED FOR CONDUCT OF STUDY*  
5 *OF CHILD WELFARE.*—Section 429A(a) (42 U.S.C.  
6 628b(a)) is amended by inserting “(directly, or by grant,  
7 contract, or interagency agreement)” after “conduct”.

8           (b) *REDESIGNATION OF PARAGRAPH.*—Section 471(a)  
9 (42 U.S.C. 671(a)) is amended—

10                   (1) by striking “and” at the end of paragraph  
11 (17);

12                   (2) by striking the period at the end of para-  
13 graph (18) (as added by section 1808(a) of the Small  
14 Business Job Protection Act of 1996 (Public Law  
15 104–188; 110 Stat. 1903)) and inserting “; and”; and

16                   (3) by redesignating paragraph (18) (as added  
17 by section 505(3) of the Personal Responsibility and  
18 Work Opportunity Reconciliation Act of 1996 (Public  
19 Law 104–193; 110 Stat. 2278)) as paragraph (19).

20   **SEC. 5982. ADDITIONAL TECHNICAL AMENDMENTS RELAT-**

21                   **ING TO CHILD PROTECTION.**

22           (a) *PART B AMENDMENTS.*—

23                   (1) *IN GENERAL.*—Part B of title IV (42 U.S.C.  
24 620–635) is amended—

25                           (A) in section 422(b)—

1                   (i) by striking the period at the end of  
2                   the paragraph (9) (as added by section  
3                   554(3) of the Improving America’s Schools  
4                   Act of 1994 (Public Law 103–382; 108 Stat.  
5                   4057)) and inserting a semicolon;

6                   (ii) by redesignating paragraph (10)  
7                   as paragraph (11); and

8                   (iii) by redesignating paragraph (9),  
9                   as added by section 202(a)(3) of the Social  
10                  Security Act Amendments of 1994 (Public  
11                  Law 103–432, 108 Stat. 4453), as para-  
12                  graph (10);

13                  (B) in sections 424(b) and 425(a), by strik-  
14                  ing “422(b)(9)” each place it appears and in-  
15                  serting “422(b)(10)”; and

16                  (C) by transferring section 429A (as added  
17                  by section 503 of the Personal Responsibility and  
18                  Work Opportunity Reconciliation Act of 1996  
19                  (Public Law 104–193; 110 Stat. 2277)) to the  
20                  end of subpart 1.

21                  (2) *CLARIFICATION OF CONFLICTING AMEND-*  
22                  *MENTS.*—Section 204(a)(2) of the Social Security Act  
23                  Amendments of 1994 (Public Law 103–432; 108 Stat.  
24                  4456) is amended by inserting “(as added by such  
25                  section 202(a))” before “and inserting”.



1           (C) in subparagraph (B)—

2                   (i) by striking “sections” and inserting  
3           “subsections”; and

4                   (ii) by striking the semicolon at the  
5           end and inserting a period; and

6           (D) in the matter following subparagraph  
7           (B), by striking “whichever is greater.”; and

8           (2) in paragraph (2)—

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

11                   “(B) ALLOTMENTS TO STATES.—The total  
12           amount available for payments to States under  
13           this paragraph, as determined under subpara-  
14           graph (A), shall be allotted among the States  
15           based on the formula used for determining the  
16           amount of Federal payments to each State under  
17           section 403(n) (as in effect before October 1,  
18           1995).”;

19                   (B) by striking subparagraph (C) and in-  
20           serting the following:

21                   “(C) FEDERAL MATCHING OF STATE EX-  
22           PENDITURES EXCEEDING HISTORICAL EXPENDI-  
23           TURES.—The Secretary shall pay to each eligible  
24           State for a fiscal year an amount equal to the  
25           lesser of the State’s allotment under subpara-

1           *graph (B) or the Federal medical assistance per-*  
 2           *centage for the State for the fiscal year (as de-*  
 3           *defined in section 1905(b), as such section was in*  
 4           *effect on September 30, 1995) of so much of the*  
 5           *State’s expenditures for child care in that fiscal*  
 6           *year as exceed the total amount of expenditures*  
 7           *by the State (including expenditures from*  
 8           *amounts made available from Federal funds) in*  
 9           *fiscal year 1994 or 1995 (whichever is greater)*  
 10          *for the programs described in paragraph*  
 11          *(1)(A).”;* and

12                   *(C) in subparagraph (D)(i)—*

13                           *(i) by striking “amounts under any*  
 14                           *grant awarded” and inserting “any*  
 15                           *amounts allotted”;* and

16                           *(ii) by striking “the grant is made”*  
 17                           *and inserting “such amounts are allotted”.*

18          ***(b) DATA USED TO DETERMINE HISTORIC STATE EX-***  
 19          ***PENDITURES.—Section 418(a) (42 U.S.C. 618(a)), is***  
 20          ***amended by adding at the end the following:***

21                   ***“(5) DATA USED TO DETERMINE STATE AND***  
 22                   ***FEDERAL SHARES OF EXPENDITURES.—In making***  
 23                   ***the determinations concerning expenditures required***  
 24                   ***under paragraphs (1) and (2)(C), the Secretary shall***  
 25                   ***use information that was reported by the State on***

1     *ACF Form 231 and available as of the applicable*  
 2     *dates specified in clauses (i)(I), (ii), and (iii)(III) of*  
 3     *section 403(a)(1)(D).”.*

4     *(c) DEFINITION OF STATE.—Section 418(d) (42 U.S.C.*  
 5     *618(d)) is amended by striking “or” and inserting “and”.*

6     **SEC. 5986. ADDITIONAL CONFORMING AND TECHNICAL**  
 7             **AMENDMENTS.**

8     *The Child Care and Development Block Grant Act of*  
 9     *1990 (42 U.S.C. 9858 et seq.) is amended—*

10             (1) *in section 658E(c)(2)(E)(ii), by striking*  
 11             *“tribal organization” and inserting “tribal organiza-*  
 12             *tions”;*

13             (2) *in section 658K(a)—*

14                     (A) *in paragraph (1)—*

15                             (i) *in subparagraph (B)—*

16                                     (I) *by striking clause (iv) and in-*  
 17                                     *serting the following:*

18   *“(iv) whether the head of the family*  
 19   *unit is a single parent;”;*

20                                     (II) *in clause (v)—*

21   (aa) *in the matter preceding*  
 22   *subclause (I), by striking “includ-*  
 23   *ing the amount obtained from*  
 24   *(and separately identified)—”*  
 25   *and inserting “including—”; and*

1                    *(bb) by striking subclause*  
2                    *(II) and inserting the following:*

3                    *“(II) cash or other assistance*  
4                    *under—*

5                    *“(aa) the temporary assist-*  
6                    *ance for needy families program*  
7                    *under part A of title IV of the So-*  
8                    *cial Security Act (42 U.S.C. 601*  
9                    *et seq.); and*

10                    *“(bb) a State program for*  
11                    *which State spending is counted*  
12                    *toward the maintenance of effort*  
13                    *requirement under section*  
14                    *409(a)(7) of the Social Security*  
15                    *Act (42 U.S.C. 609(a)(7));”;* and

16                    *(III) in clause (x), by striking*  
17                    *“week” and inserting “month”; and*

18                    *(ii) by striking subparagraph (D) and*  
19                    *inserting the following:*

20                    *“(D) USE OF SAMPLES.—*

21                    *“(i) AUTHORITY.—A State may com-*  
22                    *ply with the requirement to collect the infor-*  
23                    *mation described in subparagraph (B)*  
24                    *through the use of disaggregated case record*  
25                    *information on a sample of families selected*

1           *through the use of scientifically acceptable*  
2           *sampling methods approved by the Sec-*  
3           *retary.*

4           “(i) *SAMPLING AND OTHER METH-*  
5           *ODS.—The Secretary shall provide the*  
6           *States with such case sampling plans and*  
7           *data collection procedures as the Secretary*  
8           *deems necessary to produce statistically*  
9           *valid samples of the information described*  
10           *in subparagraph (B). The Secretary may*  
11           *develop and implement procedures for veri-*  
12           *fying the quality of data submitted by the*  
13           *States.”; and*

14           *(B) in paragraph (2)—*

15           *(i) in the heading, by striking “BIAN-*  
16           *NUAL” and inserting “ANNUAL”; and*

17           *(ii) by striking “6” and inserting*  
18           *“12”;*

19           *(3) in section 658L, by striking “1997” and in-*  
20           *serting “1998”;*

21           *(4) in section 658O(c)(6)(C), by striking “(A)”*  
22           *and inserting “(B)”;* and

23           *(5) in section 658P(13), by striking “or” and in-*  
24           *serting “and”.*

1 **SEC. 5987. EFFECTIVE DATES.**

2 (a) *IN GENERAL.*—*Except as provided in subsection*  
3 *(b), this chapter and the amendments made by this chapter*  
4 *shall take effect as if included in the enactment of title VI*  
5 *of the Personal Responsibility and Work Opportunity Rec-*  
6 *onciliation Act of 1996 (Public Law 104–193; 110 Stat.*  
7 *2278).*

8 (b) *EXCEPTIONS.*—*The amendment made by section*  
9 *5985(a)(2)(B) and the repeal made by section 5987(d) shall*  
10 *each take effect on October 1, 1997.*

11 **CHAPTER 7—ERISA AMENDMENTS RELAT-**  
12 **ING TO MEDICAL CHILD SUPPORT OR-**  
13 **DERS**

14 **SEC. 5991. AMENDMENTS RELATING TO SECTION 303 OF**  
15 **THE PERSONAL RESPONSIBILITY AND WORK**  
16 **OPPORTUNITY RECONCILIATION ACT OF 1996.**

17 (a) *PRIVACY SAFEGUARDS FOR MEDICAL CHILD SUP-*  
18 *PORT ORDERS.*—*Section 609(a)(3)(A) of the Employee Re-*  
19 *tirement Income Security Act of 1974 (29 U.S.C.*  
20 *1169(a)(3)(A)) is amended by adding at the end the follow-*  
21 *ing: “except that, to the extent provided in the order, the*  
22 *name and mailing address of an official of a State or a*  
23 *political subdivision thereof may be substituted for the*  
24 *mailing address of any such alternate recipient,”.*

25 (b) *PAYMENT TO STATE OFFICIAL TREATED AS SATIS-*  
26 *FACTION OF PLAN’S OBLIGATION.*—*Section 609(a) of such*

1 *Act (29 U.S.C. 1169(a)) is amended by adding at the end*  
2 *the following new paragraph:*

3           “(9) *PAYMENT TO STATE OFFICIAL TREATED AS*  
4           *SATISFACTION OF PLAN’S OBLIGATION TO MAKE PAY-*  
5           *MENT TO ALTERNATE RECIPIENT.*—*Payment of bene-*  
6           *fits by a group health plan to an official of a State*  
7           *or a political subdivision thereof who is named in a*  
8           *qualified medical child support order in lieu of the al-*  
9           *ternate recipient, pursuant to paragraph (3)(A), shall*  
10           *be treated, for purposes of this title, as payment of*  
11           *benefits to the alternate recipient.”.*

12           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
13 *section shall be apply with respect to medical child support*  
14 *orders issued on or after the date of the enactment of this*  
15 *Act.*

16 **SEC. 5992. AMENDMENT RELATING TO SECTION 381 OF THE**  
17           **PERSONAL RESPONSIBILITY AND WORK OP-**  
18           **PORTUNITY RECONCILIATION ACT OF 1996.**

19           (a) *CLARIFICATION OF EFFECT OF ADMINISTRATIVE*  
20 *NOTICES.*—*Section 609(a)(2)(B) of the Employee Retire-*  
21 *ment Income Security Act of 1974 (29 U.S.C.*  
22 *1169(a)(2)(B)) is amended by adding at the end the follow-*  
23 *ing new sentence: “For purposes of this subparagraph, an*  
24 *administrative notice which is issued pursuant to an ad-*  
25 *ministrative process referred to in subclause (II) of the pre-*

1 *ceding sentence and which has the effect of an order de-*  
2 *scribed in clause (i) or (ii) of the preceding sentence shall*  
3 *be treated as such an order.”.*

4       **(b) EFFECTIVE DATE.**—*The amendment made by this*  
5 *section shall be effective as if included in the enactment of*  
6 *section 381 of the Personal Responsibility and Work Oppor-*  
7 *tunity Reconciliation Act of 1996 (Public Law 104–193;*  
8 *110 Stat. 2257).*

9 **SEC. 5993. AMENDMENTS RELATING TO SECTION 382 OF**  
10                                   **THE PERSONAL RESPONSIBILITY AND WORK**  
11                                   **OPPORTUNITY RECONCILIATION ACT OF 1996.**

12       **(a) ELIMINATION OF REQUIREMENT THAT ORDERS**  
13 **SPECIFY AFFECTED PLANS.**—*Section 609(a)(3) of the Em-*  
14 *ployee Retirement Income Security Act of 1974 (29 U.S.C.*  
15 *1169(a)(3)) is amended—*

16                   (1) *in subparagraph (C), by striking “, and”*  
17 *and inserting a period; and*

18                   (2) *by striking subparagraph (D).*

19       **(b) EFFECTIVE DATE.**—*The amendments made by this*  
20 *section shall apply with respect to medical child support*  
21 *orders issued on or after the date of the enactment of this*  
22 *Act.*

1           **TITLE VI—COMMITTEE ON**  
2           **GOVERNMENTAL AFFAIRS**  
3           ***Subtitle A—Civil Service and Postal***  
4           ***Provisions***

5           **SEC. 6001. INCREASED CONTRIBUTIONS TO FEDERAL CIVIL-**  
6           **IAN RETIREMENT SYSTEMS.**

7           *(a) CIVIL SERVICE RETIREMENT SYSTEM.—*

8                   *(1) AGENCY CONTRIBUTIONS.—Notwithstanding*  
9           *section 8334(a)(1) of title 5, United States Code—*

10                           *(A) during the period beginning on October*  
11                           *1, 1997, through September 30, 2001, each em-*  
12                           *ploying agency (other than the United States*  
13                           *Postal Service, the Metropolitan Washington*  
14                           *Airports Authority, or the government of the Dis-*  
15                           *trict of Columbia) shall contribute—*

16                                   *(i) 8.51 percent of the basic pay of an*  
17                                   *employee;*

18                                   *(ii) 9.01 percent of the basic pay of a*  
19                                   *congressional employee, a law enforcement*  
20                                   *officer, a member of the Capitol police, or a*  
21                                   *firefighter; and*

22                                   *(iii) 9.51 percent of the basic pay of a*  
23                                   *Member of Congress, a Claims Court judge,*  
24                                   *a United States magistrate, a judge of the*

1            *United States Court of Appeals for the*  
2            *Armed Forces, or a bankruptcy judge; and*  
3            *(B) during the period beginning on October*  
4            *1, 2001, through September 30, 2002, each em-*  
5            *ploying agency (other than the United States*  
6            *Postal Service, the Metropolitan Washington*  
7            *Airports Authority, or the government of the Dis-*  
8            *trict of Columbia) shall contribute—*

9                    *(i) 8.6 percent of the basic pay of an*  
10                   *employee;*

11                   *(ii) 9.1 percent of the basic pay of a*  
12                   *congressional employee, a law enforcement*  
13                   *officer, a member of the Capitol police, or a*  
14                   *firefighter; and*

15                   *(iii) 9.6 percent of the basic pay of a*  
16                   *Member of Congress, a Claims Court judge,*  
17                   *a United States magistrate, a judge of the*  
18                   *United States Court of Appeals for the*  
19                   *Armed Forces, or a bankruptcy judge;*

20            *in lieu of the agency contributions otherwise required*  
21            *under section 8334(a)(1) of title 5, United States*  
22            *Code.*

23                   *(2) NO REDUCTION IN AGENCY CONTRIBUTIONS*  
24                   *BY THE POSTAL SERVICE.—Agency contributions by*

1 *the United States Postal Service under section*  
2 *8348(h) of title 5, United States Code—*

3 *(A) shall not be reduced as a result of the*  
4 *amendments made under paragraph (3) of this*  
5 *subsection; and*

6 *(B) shall be computed as though such*  
7 *amendments had not been enacted.*

8 *(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS,*  
9 *AND DEPOSITS.—The table under section 8334(c) of*  
10 *title 5, United States Code, is amended—*

11 *(A) in the matter relating to an employee*  
12 *by striking:*

*“7 ..... After December 31, 1969.”;*

13 *and inserting the following:*

*“7 ..... January 1, 1970, to December 31, 1998.*  
*7.25 ..... January 1, 1999, to December 31, 1999.*  
*7.4 ..... January 1, 2000, to December 31, 2000.*  
*7.5 ..... January 1, 2001, to December 31, 2002.*  
*7 ..... After December 31, 2002.”;*

14 *(B) in the matter relating to a Member or*  
15 *employee for congressional employee service by*  
16 *striking:*

*“7½ ..... After December 31, 1969.”;*

17 *and inserting the following:*

*“7.5 ..... January 1, 1970, to December 31, 1998.*  
*7.75 ..... January 1, 1999, to December 31, 1999.*  
*7.9 ..... January 1, 2000, to December 31, 2000.*  
*8 ..... January 1, 2001, to December 31, 2002.*

7.5 ..... After December 31, 2002.”;

1 (C) in the matter relating to a Member for  
2 Member service by striking:

“8 ..... After December 31, 1969.”;

3 and inserting the following:

“8 ..... January 1, 1970, to December 31, 1998.  
8.25 ..... January 1, 1999, to December 31, 1999.  
8.4 ..... January 1, 2000, to December 31, 2000.  
8.5 ..... January 1, 2001, to December 31, 2002.  
8 ..... After December 31, 2002.”;

4 (D) in the matter relating to a law enforce-  
5 ment officer for law enforcement service and fire-  
6 fighter for firefighter service by striking:

“7½ ..... After December 31, 1974.”;

7 and inserting the following:

“7.5 ..... January 1, 1975, to December 31, 1998.  
7.75 ..... January 1, 1999, to December 31, 1999.  
7.9 ..... January 1, 2000, to December 31, 2000.  
8 ..... January 1, 2001, to December 31, 2002.  
7.5 ..... After December 31, 2002.”;

8 (E) in the matter relating to a bankruptcy  
9 judge by striking:

“8 ..... After December 31, 1983.”;

10 and inserting the following:

“8 ..... January 1, 1984, to December 31, 1998.  
8.25 ..... January 1, 1999, to December 31, 1999.  
8.4 ..... January 1, 2000, to December 31, 2000.  
8.5 ..... January 1, 2001, to December 31, 2002.  
8 ..... After December 31, 2002.”;

1           (F) in the matter relating to a judge of the  
2           United States Court of Appeals for the Armed  
3           Forces for service as a judge of that court by  
4           striking:

“8 ..... On and after the date of enactment of the  
                  Department of Defense Authorization Act,  
                  1984.”;

5           and inserting the following:

“8 ..... The date of enactment of the Department of  
                  Defense Authorization Act, 1984, to De-  
                  cember 31, 1998.  
8.25 ..... January 1, 1999, to December 31, 1999.  
8.4 ..... January 1, 2000, to December 31, 2000.  
8.5 ..... January 1, 2001, to December 31, 2002.  
8 ..... After December 31, 2002.”;

6           (G) in the matter relating to a United  
7           States magistrate by striking:

“8 ..... After September 30, 1987.”;

8           and inserting the following:

“8 ..... October 1, 1987, to December 31, 1998.  
8.25 ..... January 1, 1999, to December 31, 1999.  
8.4 ..... January 1, 2000, to December 31, 2000.  
8.5 ..... January 1, 2001, to December 31, 2002.  
8 ..... After December 31, 2002.”;

9           (H) in the matter relating to a Claims  
10          Court judge by striking:

“8 ..... After September 30, 1988.”;

11          and insert the following:

“8 ..... October 1, 1988, to December 31, 1998.  
8.25 ..... January 1, 1999, to December 31, 1999.  
8.4 ..... January 1, 2000, to December 31, 2000.  
8.5 ..... January 1, 2001, to December 31, 2002.”;

8 ..... After December 31, 2002.”;

1 and

2 (I) by inserting after the matter relating to  
3 a Claims Court judge the following:

|                                     |            |  |
|-------------------------------------|------------|--|
| “Member of the Capitol Police ..... | 2.5 .....  | August 1, 1920, to June 30,<br>1926.       |
|                                     | 3.5 .....  | July 1, 1926, to June 30,<br>1942.         |
|                                     | 5 .....    | July 1, 1942, to June 30,<br>1948.         |
|                                     | 6 .....    | July 1, 1948, to October 31,<br>1956.      |
|                                     | 6.5 .....  | November 1, 1956, to December<br>31, 1969. |
|                                     | 7.5 .....  | January 1, 1970, to December<br>31, 1998.  |
|                                     | 7.75 ..... | January 1, 1999, to December<br>31, 1999.  |
|                                     | 7.9 .....  | January 1, 2000, to December<br>31, 2000.  |
|                                     | 8 .....    | January 1, 2001, to December<br>31, 2002.  |
|                                     | 7.5 .....  | After December 31, 2002.”.                 |

4 (4) OTHER SERVICE.—

5 (A) MILITARY SERVICE.—Section 8334(j) of  
6 title 5, United States Code, is amended—

7 (i) in paragraph (1)(A) by inserting  
8 “and subject to paragraph (5),” after “Ex-  
9 cept as provided in subparagraph (B),”;  
10 and

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

13 “(5) Effective with respect to any period of mili-  
14 tary service after December 31, 1998, the percentage  
15 of basic pay under section 204 of title 37 payable  
16 under paragraph (1) shall be equal to the same per-  
17 centage as would be applicable under subsection (c) of

1 *this section for that same period for service as an em-*  
2 *ployee, subject to paragraph (1)(B).”.*

3 (B) *VOLUNTEER SERVICE.*—Section 8334(l)

4 *of title 5, United States Code, is amended—*

5 (i) *in paragraph (1) by adding at the*  
6 *end the following: “This paragraph shall be*  
7 *subject to paragraph (4).”;* and

8 (ii) *by adding at the end the following*  
9 *new paragraph:*

10 “(4) *Effective with respect to any period of serv-*  
11 *ice after December 31, 1998, the percentage of the re-*  
12 *adjustment allowance or stipend (as the case may be)*  
13 *payable under paragraph (1) shall be equal to the*  
14 *same percentage as would be applicable under sub-*  
15 *section (c) of this section for the same period for serv-*  
16 *ice as an employee.”.*

17 (b) *FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.*—

18 (1) *INDIVIDUAL DEDUCTIONS AND*  
19 *WITHHOLDINGS.*—

20 (A) *IN GENERAL.*—Section 8422(a) of title  
21 5, United States Code, is amended by striking  
22 paragraph (2) and inserting the following:

23 “(2) *The percentage to be deducted and withheld*  
24 *from basic pay for any pay period shall be equal to—*

1           “(A) the applicable percentage under para-  
2 graph (3), minus

3           “(B) the percentage then in effect under sec-  
4 tion 3101(a) of the Internal Revenue Code of  
5 1986 (relating to rate of tax for old-age, survi-  
6 vors, and disability insurance).

7           “(3) The applicable percentage under this para-  
8 graph for civilian service shall be as follows:

|   |            |   |
|---|------------|---|
| <i>Employee</i> .....   | 7 .....    | <i>Before January 1, 1999.</i>                |
|   | 7.25 ..... | <i>January 1, 1999, to December 31, 1999.</i> |
|   | 7.4 .....  | <i>January 1, 2000, to December 31, 2000.</i> |
|   | 7.5 .....  | <i>January 1, 2001, to December 31, 2002.</i> |
| <i>Congressional employee</i> .....   | 7 .....    | <i>After December 31, 2002.</i>               |
|   | 7.5 .....  | <i>Before January 1, 1999.</i>                |
|   | 7.75 ..... | <i>January 1, 1999, to December 31, 1999.</i> |
|   | 7.9 .....  | <i>January 1, 2000, to December 31, 2000.</i> |
| <i>Member</i> .....   | 8 .....    | <i>January 1, 2001, to December 31, 2002.</i> |
|   | 7.5 .....  | <i>After December 31, 2002.</i>               |
|   | 7.5 .....  | <i>Before January 1, 1999.</i>                |
|   | 7.75 ..... | <i>January 1, 1999, to December 31, 1999.</i> |
| <i>Law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller.</i> | 7.9 .....  | <i>January 1, 2000, to December 31, 2000.</i> |
|   | 8 .....    | <i>January 1, 2001, to December 31, 2002.</i> |
|   | 7.5 .....  | <i>After December 31, 2002.</i>               |
|   | 7.5 .....  | <i>Before January 1, 1999.</i>                |
|   | 7.75 ..... | <i>January 1, 1999, to December 31, 1999.</i> |
|   | 7.9 .....  | <i>January 1, 2000, to December 31, 2000.</i> |
|   | 8 .....    | <i>January 1, 2001, to December 31, 2002.</i> |
|   | 7.5 .....  | <i>After December 31, 2002.”.</i>             |

9           (B) *MILITARY SERVICE*.—Section 8422(e) of  
10 title 5, United States Code, is amended—

11           (i) in paragraph (1)(A) by inserting  
12           “and subject to paragraph (6),” after “Ex-  
13           cept as provided in subparagraph (B),”;  
14           and

1                   (ii) by adding at the end the following:

2                   “(6) The percentage of basic pay under section  
3                   204 of title 37 payable under paragraph (1), with re-  
4                   spect to any period of military service performed dur-  
5                   ing—

6                   “(A) January 1, 1999, through December  
7                   31, 1999, shall be 3.25 percent;

8                   “(B) January 1, 2000, through December  
9                   31, 2000, shall be 3.4 percent; and

10                  “(C) January 1, 2001, through December  
11                  31, 2002, shall be 3.5 percent.”.

12                  (C) VOLUNTEER SERVICE.—Section 8422(f)  
13                  of title 5, United States Code, is amended—

14                  (i) in paragraph (1) by adding at the  
15                  end the following: “This paragraph shall be  
16                  subject to paragraph (4).”; and

17                  (ii) by adding at the end the following:

18                  “(4) The percentage of the readjustment allow-  
19                  ance or stipend (as the case may be) payable under  
20                  paragraph (1), with respect to any period of volunteer  
21                  service performed during—

22                  “(A) January 1, 1999, through December  
23                  31, 1999, shall be 3.25 percent;

24                  “(B) January 1, 2000, through December  
25                  31, 2000, shall be 3.4 percent; and

1           “(C) *January 1, 2001, through December*  
2           *31, 2002, shall be 3.5 percent.*”

3           (2) *NO REDUCTION IN AGENCY CONTRIBU-*  
4           *TIONS.—Agency contributions under section 8423 (a)*  
5           *and (b) of title 5, United States Code, shall not be re-*  
6           *duced as a result of the amendments made under*  
7           *paragraph (1) of this subsection.*

8           (c) *CENTRAL INTELLIGENCE AGENCY RETIREMENT*  
9           *AND DISABILITY SYSTEM.—*

10           (1) *AGENCY CONTRIBUTIONS.—Notwithstanding*  
11           *section 211(a)(2) of the Central Intelligence Agency*  
12           *Retirement Act (50 U.S.C. 2021(a)(2))—*

13                   (A) *during the period beginning on October*  
14                   *1, 1997, through September 30, 2001, the Central*  
15                   *Intelligence Agency shall contribute 8.51 percent*  
16                   *of the basic pay of an employee participating in*  
17                   *the Central Intelligence Agency Retirement and*  
18                   *Disability System; and*

19                   (B) *during the period beginning on October*  
20                   *1, 2001, through September 30, 2002, the Central*  
21                   *Intelligence Agency shall contribute 8.6 percent*  
22                   *of the basic pay of an employee participating in*  
23                   *the Central Intelligence Agency Retirement and*  
24                   *Disability System.*

1           (2) *INDIVIDUAL DEDUCTIONS, WITHHOLDINGS,*  
 2           *AND DEPOSITS.*—*Notwithstanding section 211(a)(1) of*  
 3           *the Central Intelligence Agency Retirement Act (50*  
 4           *U.S.C. 2021(a)(1)) beginning on January 1, 1999,*  
 5           *through December 31, 2002, the amount withheld and*  
 6           *deducted from the basic pay of an employee partici-*  
 7           *parting in Central Intelligence Agency Retirement and*  
 8           *Disability System shall be as follows:*

“7.25 ..... *January 1, 1999, to December 31, 1999.*  
 7.4 ..... *January 1, 2000, to December 31, 2000.*  
 7.5 ..... *January 1, 2001, to December 31, 2002.*  
 7 ..... *After December 31, 2002.”*

9           (3) *MILITARY SERVICE.*—*Section 252(h)(1) of the*  
 10          *Central Intelligence Agency Retirement Act (50*  
 11          *U.S.C. 2082(h)(1)), is amended to read as follows:*

12          “(h)(1)(A) *Each participant who has performed mili-*  
 13          *tary service before the date of separation on which entitle-*  
 14          *ment to an annuity under this title is based may pay to*  
 15          *the Agency an amount equal to 7 percent of the amount*  
 16          *of basic pay paid under section 204 of title 37, United*  
 17          *States Code, to the participant for each period of military*  
 18          *service after December 1956; except, the amount to be paid*  
 19          *for military service performed beginning on January 1,*  
 20          *1999, through December 31, 2002, shall be as follows:*

“7.25 percent of     *January 1, 1999, to December 31, 1999.*  
           *basic pay.*  
 7.4 percent of     *January 1, 2000, to December 31, 2000.*  
           *basic pay.*  
 7.5 percent of     *January 1, 2001, to December 31, 2002.*  
           *basic pay.*

7 percent of            After December 31, 2002.  
basic pay.

1           “(B) *The amount of such payments shall be based on*  
2 *such evidence of basic pay for military service as the partic-*  
3 *ipant may provide or, if the Director determines sufficient*  
4 *evidence has not been provided to adequately determine*  
5 *basic pay for military service, such payment shall be based*  
6 *upon estimates of such basic pay provided to the Director*  
7 *under paragraph (4).”.*

8           (d) *FOREIGN SERVICE RETIREMENT AND DISABILITY*  
9 *SYSTEM.—*

10           (1) *AGENCY CONTRIBUTIONS.—Notwithstanding*  
11 *section 805(a) (1) and (2) of the Foreign Service Act*  
12 *of 1980 (22 U.S.C. 4045(a) (1) and (2))—*

13           (A) *during the period beginning on October*  
14 *1, 1997, through September 30, 2001, each agen-*  
15 *cy employing a participant in the Foreign Serv-*  
16 *ice Retirement and Disability System shall con-*  
17 *tribute to the Foreign Service Retirement and*  
18 *Disability Fund—*

19           (i) *8.51 percent of the basic pay of*  
20 *each participant covered under section*  
21 *805(a)(1) of such Act participating in the*  
22 *Foreign Service Retirement and Disability*  
23 *System; and*

1                   (ii) 9.01 percent of the basic pay of  
2                   each participant covered under section  
3                   805(a)(2) of such Act participating in the  
4                   Foreign Service Retirement and Disability  
5                   System; and

6                   (B) during the period beginning on October  
7                   1, 2001, through September 30, 2002, each agen-  
8                   cy employing a participant in the Foreign Serv-  
9                   ice Retirement and Disability System shall con-  
10                  tribute to the Foreign Service Retirement and  
11                  Disability Fund—

12                  (i) 8.6 percent of the basic pay of each  
13                  participant covered under section 805(a)(1)  
14                  of such Act participating in the Foreign  
15                  Service Retirement and Disability System;  
16                  and

17                  (ii) 9.1 percent of the basic pay of each  
18                  participant covered under section 805(a)(2)  
19                  of such Act participating in the Foreign  
20                  Service Retirement and Disability System.

21                  (2) *INDIVIDUAL DEDUCTIONS, WITHHOLDINGS,*  
22                  *AND DEPOSITS.—*

23                  (A) *IN GENERAL.—*Notwithstanding section  
24                  805(a)(1) of the Foreign Service Act of 1980 (22  
25                  U.S.C. 4045(a)(1)), beginning on January 1,

1           1999, through December 31, 2002, the amount  
 2           withheld and deducted from the basic pay of a  
 3           participant in the Foreign Service Retirement  
 4           and Disability System shall be as follows:

“7.25 ..... January 1, 1999, to December 31, 1999.  
 7.4 ..... January 1, 2000, to December 31, 2000.  
 7.5 ..... January 1, 2001, to December 31, 2002.  
 7 ..... After December 31, 2002.”.

5                           (B) *FOREIGN SERVICE CRIMINAL INVESTIGATORS/INSPECTORS OF THE OFFICE OF THE*  
 6                           *INSPECTOR GENERAL, AGENCY FOR INTERNATIONAL DEVELOPMENT.*—Notwithstanding section 805(a)(2) of the Foreign Service Act of 1980  
 7                           (22 U.S.C. 4045(a)(2)), beginning on January 1,  
 8                           1999, through December 31, 2002, the amount  
 9                           withheld and deducted from the basic pay of an  
 10                           eligible Foreign Service criminal investigator/in-  
 11                           spectator of the Office of the Inspector General,  
 12                           Agency for International Development partici-  
 13                           pating in the Foreign Service Retirement and  
 14                           Disability System shall be as follows:  
 15  
 16  
 17

“7.75 ..... January 1, 1999, to December 31, 1999.  
 7.9 ..... January 1, 2000, to December 31, 2000.  
 8 ..... January 1, 2001, to December 31, 2002.  
 7.5 ..... After December 31, 2002.”.

18                           (C) *MILITARY SERVICE.*—Section 805(e) of  
 19                           the Foreign Service Act of 1980 (22 U.S.C.  
 20                           4045(e)) is amended—

1                   (i) in subsection (e)(1) by striking  
2                   “Each” and inserting “Subject to para-  
3                   graph (5), each”; and

4                   (ii) by adding after paragraph (4) the  
5                   following new paragraph:

6                   “(5) Effective with respect to any period of mili-  
7                   tary service after December 31, 1998, the percentage  
8                   of basic pay under section 204 of title 37, United  
9                   States Code, payable under paragraph (1) shall be  
10                  equal to the same percentage as would be applicable  
11                  under section 8334(c) of title 5, United States Code,  
12                  for that same period for service as an employee.”.

13                  (e) FOREIGN SERVICE PENSION SYSTEM.—

14                  (1) INDIVIDUAL DEDUCTIONS AND  
15                  WITHHOLDINGS FROM PAY.—

16                  (A) IN GENERAL.—Section 856(a) of the  
17                  Foreign Service Act of 1980 (22 U.S.C.  
18                  4071e(a)) is amended to read as follows:

19                  “(a)(1) The employing agency shall deduct and with-  
20                  hold from the basic pay of each participant the applicable  
21                  percentage of basic pay specified in paragraph (2) of this  
22                  subsection minus the percentage then in effect under section  
23                  3101(a) of the Internal Revenue Code of 1986 (26 U.S.C.  
24                  3101(a)) (relating to the rate of tax for old age, survivors,  
25                  and disability insurance).

1       “(2) *The applicable percentage under this subsection*  
 2 *shall be as follows:*

“7.5 ..... *Before January 1, 1999.*  
 7.75 ..... *January 1, 1999, to December 31, 1999.*  
 7.9 ..... *January 1, 2000, to December 31, 2000.*  
 8 ..... *January 1, 2001, to December 31, 2002.*  
 7.5 ..... *After December 31, 2002.”.*

3                   (B) *VOLUNTEER SERVICE.—Subsection*  
 4 *854(c) of the Foreign Service Act of 1980 (22*  
 5 *U.S.C. 4071c(c)) is amended to read as follows:*

6       “(c)(1) *Credit shall be given under this System to a*  
 7 *participant for a period of prior satisfactory service as—*

8                   “(A) *a volunteer or volunteer leader under the*  
 9 *Peace Corps Act (22 U.S.C. 2501 et seq.),*

10                   “(B) *a volunteer under part A of title VIII of the*  
 11 *Economic Opportunity Act of 1964, or*

12                   “(C) *a full-time volunteer for a period of service*  
 13 *of at least 1 year’s duration under part A, B, or C*  
 14 *of title I of the Domestic Volunteer Service Act of*  
 15 *1973 (42 U.S.C. 4951 et seq.),*

16 *if the participant makes a payment to the Fund equal to*  
 17 *3 percent of pay received for the volunteer service; except,*  
 18 *the amount to be paid for volunteer service beginning on*  
 19 *January 1, 1999, through December 31, 2002, shall be as*  
 20 *follows:*

“3.25 ..... *January 1, 1999, to December 31, 1999.*  
 3.4 ..... *January 1, 2000, to December 31, 2000.*  
 3.5 ..... *January 1, 2001, to December 31, 2002.*

1       “(2) *The amount of such payments shall be determined*  
2 *in accordance with regulations of the Secretary of State*  
3 *consistent with regulations for making corresponding deter-*  
4 *minations under chapter 83, title 5, United States Code,*  
5 *together with interest determined under regulations issued*  
6 *by the Secretary of State.”.*

7           (2) *NO REDUCTION IN AGENCY CONTRIBU-*  
8 *TIONS.—Agency contributions under section 857 of*  
9 *the Foreign Service Act of 1980 (22 U.S.C. 4071f)*  
10 *shall not be reduced as a result of the amendments*  
11 *made under paragraph (1) of this subsection.*

12       (f) *EFFECTIVE DATE.—Except as otherwise provided,*  
13 *the amendments made by this section shall take effect on*  
14 *the first day of the first applicable pay period beginning*  
15 *on or after January 1, 1999.*

16 **SEC. 6002. GOVERNMENT CONTRIBUTIONS UNDER THE FED-**  
17 **ERAL EMPLOYEES HEALTH BENEFITS PRO-**  
18 **GRAM.**

19       (a) *IN GENERAL.—Section 8906 of title 5, United*  
20 *States Code, is amended by striking subsection (a) and all*  
21 *that follows through the end of paragraph (1) of subsection*  
22 *(b) and inserting the following:*

23       “(a)(1) *Not later than October 1 of each year, the Of-*  
24 *fice of Personnel Management shall determine the weighted*

1 *average of the subscription charges that will be in effect dur-*  
2 *ing the following contract year with respect to—*

3           “(A) *enrollments under this chapter for self*  
4           *alone; and*

5           “(B) *enrollments under this chapter for self and*  
6           *family.*

7           “(2) *In determining each weighted average under*  
8 *paragraph (1), the weight to be given to a particular sub-*  
9 *scription charge shall, with respect to each plan (and op-*  
10 *tion) to which it is to apply, be commensurate with the*  
11 *number of enrollees enrolled in such plan (and option) as*  
12 *of March 31 of the year in which the determination is being*  
13 *made.*

14           “(3) *For purposes of paragraph (2), the term ‘enrollee’*  
15 *means any individual who, during the contract year for*  
16 *which the weighted average is to be used under this section,*  
17 *will be eligible for a Government contribution for health*  
18 *benefits.*

19           “(b)(1) *Except as provided in paragraphs (2) and (3),*  
20 *the biweekly Government contribution for health benefits for*  
21 *an employee or annuitant enrolled in a health benefits plan*  
22 *under this chapter is adjusted to an amount equal to 72*  
23 *percent of the weighted average under subsection (a)(1) (A)*  
24 *or (B), as applicable. For an employee, the adjustment be-*  
25 *gins on the first day of the employee’s first pay period of*

1 *each year. For an annuitant, the adjustment begins on the*  
 2 *first day of the first period of each year for which an annu-*  
 3 *ity payment is made.”.*

4 (b) *EFFECTIVE DATE.*—*This section shall take effect*  
 5 *on the first day of the contract year that begins in 1999.*  
 6 *Nothing in this subsection shall prevent the Office of Per-*  
 7 *sonnel Management from taking any action, before such*  
 8 *first day, which it considers necessary in order to ensure*  
 9 *the timely implementation of this section.*

10 **SEC. 6003. REPEAL OF AUTHORIZATION OF TRANSITIONAL**  
 11 **APPROPRIATIONS FOR THE UNITED STATES**  
 12 **POSTAL SERVICE.**

13 (a) *REPEAL.*—

14 (1) *IN GENERAL.*—*Section 2004 of title 39, Unit-*  
 15 *ed States Code, is repealed.*

16 (2) *TECHNICAL AND CONFORMING AMEND-*  
 17 *MENTS.*—

18 (A) *The table of sections for chapter 20 of*  
 19 *such title is amended by repealing the item relat-*  
 20 *ing to section 2004.*

21 (B) *Section 2003(e)(2) of such title is*  
 22 *amended by striking “sections 2401 and 2004”*  
 23 *each place it appears and inserting “section*  
 24 *2401”.*

1       (b) *CLARIFICATION THAT LIABILITIES FORMERLY*  
2 *PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES*  
3 *PAYABLE BY THE POSTAL SERVICE.*—Section 2003 of title  
4 39, United States Code, is amended by adding at the end  
5 the following:

6       “(h) *Liabilities of the former Post Office Department*  
7 *to the Employees’ Compensation Fund (appropriations for*  
8 *which were authorized by former section 2004, as in effect*  
9 *before the effective date of this subsection) shall be liabilities*  
10 *of the Postal Service payable out of the Fund.*”.

11       (c) *EFFECTIVE DATE.*—This section and the amend-  
12 ments made by this section shall be effective as of October  
13 1, 1997.

14 **SEC. 6004. MEDICARE MEANS TESTING STANDARD APPLICA-**  
15 **BLE TO SENATORS’ HEALTH COVERAGE**  
16 **UNDER THE FEHBP.**

17       (a) *PURPOSE.*—The purpose of this section is to apply  
18 the medicare means testing requirements for part B pre-  
19 miums to individuals with adjusted gross incomes in excess  
20 of \$100,000 as enacted under section 5542 of this Act, to  
21 United States Senators with respect to their employee con-  
22 tributions and Government contributions under the Federal  
23 Employees Health Benefits Program.

24       (b) *IN GENERAL.*—Section 8906 of title 5, United  
25 States Code, is amended by adding at the end the following:

1       “(j) Notwithstanding any other provision of this sec-  
2 tion, each employee who is a Senator and is paid at an  
3 annual rate of pay exceeding \$100,000 shall pay the em-  
4 ployee contribution and the full amount of the Government  
5 contribution which applies under this section. The Sec-  
6 retary of the Senate shall deduct and withhold the contribu-  
7 tions required under this section and deposit such contribu-  
8 tions in the Employees Health Benefits Fund.”.

9       (c) *EFFECTIVE DATE.*—This section shall take effect  
10 on the first day of the first pay period beginning on or  
11 after the date of enactment of this Act.

## 12       **Subtitle B—GSA Property Sales**

### 13       **SEC. 6011. SALE OF GOVERNORS ISLAND, NEW YORK.**

14       (a) *IN GENERAL.*—Notwithstanding any other provi-  
15 sion of law, the Administrator of General Services shall,  
16 no earlier than fiscal year 2002, dispose of by sale at fair  
17 market value all rights, title, and interests of the United  
18 States in and to the land of, and improvements to, Gov-  
19 ernors Island, New York.

20       (b) *RIGHT OF FIRST OFFER.*—Before a sale is made  
21 under subsection (a) to any other parties, the State of New  
22 York and the city of New York shall be given the right of  
23 first offer to purchase all or part of Governors Island at  
24 fair market value as determined by the Administrator of  
25 General Services. Not later than 90 days after notification

1 *by the Administrator of General Services, such right may*  
2 *be exercised by either the State of New York or the city of*  
3 *New York or by both parties acting jointly.*

4 *(c) PROCEEDS.—Proceeds from the disposal of Gov-*  
5 *ernors Island under subsection (a) shall be deposited in the*  
6 *general fund of the Treasury and credited as miscellaneous*  
7 *receipts.*

8 **SEC. 6012. SALE OF AIR RIGHTS.**

9 *(a) IN GENERAL.—Notwithstanding any other provi-*  
10 *sion of law, the Administrator of General Services shall sell,*  
11 *at fair market value and in a manner to be determined*  
12 *by the Administrator, the air rights adjacent to Washington*  
13 *Union Station described in subsection (b), including air*  
14 *rights conveyed to the Administrator under subsection (d).*  
15 *The Administrator shall complete the sale by such date as*  
16 *is necessary to ensure that the proceeds from the sale will*  
17 *be deposited in accordance with subsection (c).*

18 *(b) DESCRIPTION.—The air rights referred to in sub-*  
19 *section (a) total approximately 16.5 acres and are depicted*  
20 *on the plat map of the District of Columbia as follows:*

21 *(1) Part of lot 172, square 720.*

22 *(2) Part of lots 172 and 823, square 720.*

23 *(3) Part of lot 811, square 717.*

24 *(c) PROCEEDS.—Before September 30, 2002, proceeds*  
25 *from the sale of air rights under subsection (a) shall be de-*

1 *posited in the general fund of the Treasury and credited*  
 2 *as miscellaneous receipts.*

3 *(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—*

4 *(1) GENERAL RULE.—As a condition of future*  
 5 *Federal financial assistance, Amtrak shall convey to*  
 6 *the Administrator of General Services on or before*  
 7 *December 31, 1997, at no charge, all of the air rights*  
 8 *of Amtrak described in subsection (b).*

9 *(2) FAILURE TO COMPLY.—If Amtrak does not*  
 10 *meet the condition established by paragraph (1), Am-*  
 11 *trak shall be prohibited from obligating Federal funds*  
 12 *after March 1, 1998.*

13 **TITLE VII—COMMITTEE ON**  
 14 **LABOR AND HUMAN RESOURCES**

15 **SEC. 7001. MANAGEMENT AND RECOVERY OF RESERVES.**

16 *(a) AMENDMENT.—Section 422 of the Higher Edu-*  
 17 *cation Act of 1965 (20 U.S.C. 1072) is amended by adding*  
 18 *after subsection (g) the following new subsection:*

19 *“(h) RECALL OF RESERVES; LIMITATIONS ON USE OF*  
 20 *RESERVE FUNDS AND ASSETS.—*

21 *“(1) IN GENERAL.—Notwithstanding any other*  
 22 *provision of law, the Secretary shall, except as other-*  
 23 *wise provided in this subsection, recall \$1,028,000,000*  
 24 *from the reserve funds held by guaranty agencies*  
 25 *under this part (which for purposes of this subsection*

1     *shall include any reserve funds held by, or under the*  
2     *control of, any other entity) on September 1, 2002.*

3             “(2) *DEPOSIT.—Funds recalled by the Secretary*  
4     *under this subsection shall be deposited in the Treas-*  
5     *ury.*

6             “(3) *EQUITABLE SHARE.—The Secretary shall*  
7     *require each guaranty agency to return reserve funds*  
8     *under paragraph (1) based on such agency’s equitable*  
9     *share of excess reserve funds held by guaranty agen-*  
10    *cies as of September 30, 1996. For purposes of this*  
11    *paragraph, a guaranty agency’s equitable share of ex-*  
12    *cess reserve funds shall be determined as follows:*

13             “(A) *The Secretary shall compute each*  
14    *agency’s reserve ratio by dividing (i) the amount*  
15    *held in such agency’s reserve (including funds*  
16    *held by, or under the control of, any other entity)*  
17    *as of September 30, 1996, by (ii) the original*  
18    *principal amount of all loans for which such*  
19    *agency has an outstanding insurance obligation.*

20             “(B) *If the reserve ratio of any agency as*  
21    *computed under subparagraph (A) exceeds 1.12*  
22    *percent, the agency’s equitable share shall in-*  
23    *clude so much of the amounts held in such agen-*  
24    *cy’s reserve fund as exceed a reserve ratio of 1.12*  
25    *percent.*

1           “(C) *If any additional amount is required*  
2           *to be recalled under paragraph (1) (after deduct-*  
3           *ing the total of the equitable shares calculated*  
4           *under subparagraph (B)), the agencies’ equitable*  
5           *shares shall include additional amounts—*

6                     “(i) *determined by imposing on each*  
7                     *such agency an equal percentage reduction*  
8                     *in the amount of each agency’s reserve fund*  
9                     *remaining after deduction of the amount re-*  
10                    *called under subparagraph (B); and*

11                   “(ii) *the total of which equals the addi-*  
12                    *tional amount that is required to be recalled*  
13                    *under paragraph (1) (after deducting the*  
14                    *total of the equitable shares calculated under*  
15                    *subparagraph (B)).*

16           “(4) *RESTRICTED ACCOUNTS.—Within 90 days*  
17           *after the beginning of each of fiscal years 1998*  
18           *through 2002, each guaranty agency shall transfer a*  
19           *portion of each agency’s equitable share determined*  
20           *under paragraph (3) to a restricted account estab-*  
21           *lished by the guaranty agency that is of a type se-*  
22           *lected by the guaranty agency with the approval of*  
23           *the Secretary. Funds transferred to such restricted ac-*  
24           *counts shall be invested in obligations issued or guar-*  
25           *anteed by the United States or in other similarly low-*

1     *risk securities. A guaranty agency shall not use the*  
2     *funds in such a restricted account for any purpose*  
3     *without the express written permission of the Sec-*  
4     *retary, except that a guaranty agency may use the*  
5     *earnings from such restricted account for activities to*  
6     *reduce student loan defaults under this part. The por-*  
7     *tion required to be transferred shall be determined as*  
8     *follows:*

9             “(A) In fiscal year 1998—

10                 “(i) all agencies combined shall trans-  
11                 *fer to a restricted account an amount equal*  
12                 *to one-fifth of the total amount recalled*  
13                 *under paragraph (1);*

14                 “(ii) each agency with a reserve ratio  
15                 *(as computed under paragraph (3)(A)) that*  
16                 *exceeds 2 percent shall transfer to a re-*  
17                 *stricted account so much of the amounts*  
18                 *held in such agency’s reserve fund as exceed*  
19                 *a reserve ratio of 2 percent; and*

20                 “(iii) each agency shall transfer any  
21                 *additional amount required under clause (i)*  
22                 *(after deducting the amount transferred*  
23                 *under clause (ii)) by transferring an*  
24                 *amount that represents an equal percentage*

1           of each agency's equitable share to a re-  
2           stricted account.

3           “(B) *In fiscal years 1999 through 2002,*  
4           *each agency shall transfer an amount equal to*  
5           *one-fourth of the total amount remaining of the*  
6           *agency's equitable share (after deduction of the*  
7           *amount transferred under subparagraph (A)).*

8           “(5) *SHORTAGE.—If, on September 1, 2002, the*  
9           *total amount in the restricted accounts described in*  
10          *paragraph (4) is less than the amount the Secretary*  
11          *is required to recall under paragraph (1), the Sec-*  
12          *retary may require the return of the amount of the*  
13          *shortage from other reserve funds held by guaranty*  
14          *agencies under procedures established by the Sec-*  
15          *retary.*

16          “(6) *PROHIBITION.—The Secretary shall not*  
17          *have any authority to direct a guaranty agency to re-*  
18          *turn reserve funds under subsection (g)(1)(A) during*  
19          *the period from the date of enactment of this sub-*  
20          *section through September 30, 2002, and any reserve*  
21          *funds otherwise returned under subsection (g)(1) dur-*  
22          *ing such period shall be treated as amounts recalled*  
23          *under this subsection and shall not be available under*  
24          *subsection (g)(4).*

1           “(7) *DEFINITION.*—For purposes of this sub-  
2           section the term ‘reserve funds’ when used with re-  
3           spect to a guaranty agency—

4                   “(A) includes any reserve funds held by, or  
5                   under the control of, any other entity; and

6                   “(B) does not include buildings, equipment,  
7                   or other nonliquid assets.”.

8           (b) *CONFORMING AMENDMENT.*—Section 428(c)(9)(A)  
9 of the Higher Education Act of 1965 (20 U.S.C.  
10 1078(c)(9)(A)) is amended—

11                   (1) in the first sentence, by striking “for the fis-  
12                   cal year of the agency that begins in 1993”; and

13                   (2) by striking the third sentence.

14 **SEC. 7002. REPEAL OF DIRECT LOAN ORIGINATION FEES TO**  
15 **INSTITUTIONS OF HIGHER EDUCATION.**

16           Section 452 of the Higher Education Act of 1965 (20  
17 U.S.C. 1087b) is amended—

18                   (1) by striking subsection (b); and

19                   (2) by redesignating subsections (c) and (d) as  
20                   subsections (b) and (c), respectively.

21 **SEC. 7003. FUNDS FOR ADMINISTRATIVE EXPENSES.**

22           Subsection (a) of section 458 of the Higher Education  
23 Act of 1965 (20 U.S.C. 1087h(a)) is amended to read as  
24 follows:

25           “(a) *ADMINISTRATIVE EXPENSES.*—

1           “(1) *IN GENERAL.*—*Each fiscal year, there shall*  
2 *be available to the Secretary from funds not otherwise*  
3 *appropriated, funds to be obligated for—*

4                   “(A) *administrative costs under this part,*  
5 *including the costs of the direct student loan pro-*  
6 *grams under this part, and*

7                   “(B) *administrative cost allowances payable*  
8 *to guaranty agencies under part B and cal-*  
9 *culated in accordance with paragraph (2),*  
10 *not to exceed (from such funds not otherwise appro-*  
11 *priated) \$532,000,000 in fiscal year 1998,*  
12 *\$610,000,000 in fiscal year 1999, \$705,000,000 in fis-*  
13 *cal year 2000, \$750,000,000 in fiscal year 2001, and*  
14 *\$750,000,000 in fiscal year 2002. Administrative cost*  
15 *allowances under subparagraph (B) of this paragraph*  
16 *shall be paid quarterly and used in accordance with*  
17 *section 428(f). The Secretary may carry over funds*  
18 *available under this section to a subsequent fiscal*  
19 *year.*

20                   “(2) *CALCULATION BASIS.*—*Administrative cost*  
21 *allowances payable to guaranty agencies under para-*  
22 *graph (1)(B) shall be calculated on the basis of 0.85*  
23 *percent of the total principal amount of loans upon*  
24 *which insurance is issued on or after the date of en-*

1 *actment of the Balanced Budget Act of 1997, except*  
 2 *that such allowances shall not exceed—*

3 *“(A) \$170,000,000 for each of the fiscal*  
 4 *years 1998 and 1999; or*

5 *“(B) \$150,000,000 for each of the fiscal*  
 6 *years 2000, 2001, and 2002.”.*

7 **SEC. 7004. EXTENSION OF STUDENT AID PROGRAMS.**

8 *Title IV of the Higher Education Act of 1965 (20*  
 9 *U.S.C. 1070 et seq.) is amended—*

10 *(1) in section 424(a), by striking “1998.” and*  
 11 *“2002.” and inserting “2002.” and “2006.”, respec-*  
 12 *tively;*

13 *(2) in section 428(a)(5), by striking “1998,” and*  
 14 *“2002.” and inserting “2002,” and “2006.”, respec-*  
 15 *tively; and*

16 *(3) in section 428C(e), by striking “1998.” and*  
 17 *inserting “2002.”.*

18 **TITLE VIII—COMMITTEE ON**  
 19 **VETERANS’ AFFAIRS**

20 **SEC. 8001. SHORT TITLE; TABLE OF CONTENTS.**

21 *(a) SHORT TITLE.—This title may be cited as the*  
 22 *“Veterans Reconciliation Act of 1997”.*

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

**TITLE VIII—COMMITTEE ON VETERANS’ AFFAIRS**

*Sec. 8001. Short title; table of contents.*

*Subtitle A—Extension of Temporary Authorities*

*Sec. 8011. Enhanced loan asset sale authority.*

*Sec. 8012. Home loan fees.*

*Sec. 8013. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.*

*Sec. 8014. Income verification authority.*

*Sec. 8015. Limitation on pension for certain recipients of medicaid-covered nursing home care.*

*Subtitle B—Copayments and Medical Care Cost Recovery*

*Sec. 8021. Authority to require that certain veterans make copayments in exchange for receiving health care benefits.*

*Sec. 8022. Medical care cost recovery authority.*

*Sec. 8023. Department of Veterans Affairs medical-care receipts.*

*Subtitle C—Other Matters*

*Sec. 8031. Rounding down of cost-of-living adjustments in compensation and DIC rates in fiscal years 1998 through 2002.*

*Sec. 8032. Increase in amount of home loan fees for the purchase of repossessed homes from the Department of Veterans Affairs.*

*Sec. 8033. Withholding of payments and benefits.*

1 ***Subtitle A—Extension of Temporary***  
2 ***Authorities***

3 ***SEC. 8011. ENHANCED LOAN ASSET SALE AUTHORITY.***

4 *Section 3720(h)(2) of title 38, United States Code, is*  
5 *amended by striking out “December 31, 1997” and insert-*  
6 *ing in lieu thereof “December 31, 2002”.*

7 ***SEC. 8012. HOME LOAN FEES.***

8 *Section 3729(a) of title 38, United States Code, is*  
9 *amended—*

10 *(1) in paragraph (4), by striking out “October 1,*  
11 *1998” and inserting in lieu thereof “October 1, 2002”;*  
12 *and*

13 *(2) in paragraph (5)(C), by striking out “Octo-*  
14 *ber 1, 1998” and inserting in lieu thereof “October 1,*  
15 *2002”.*

1 **SEC. 8013. PROCEDURES APPLICABLE TO LIQUIDATION**  
 2 **SALES ON DEFAULTED HOME LOANS GUAR-**  
 3 **ANTEED BY THE DEPARTMENT OF VETERANS**  
 4 **AFFAIRS.**

5 *Section 3732(c)(11) of title 38, United States Code, is*  
 6 *amended by striking out “October 1, 1998” and inserting*  
 7 *in lieu thereof “October 1, 2002”.*

8 **SEC. 8014. INCOME VERIFICATION AUTHORITY.**

9 *Section 5317(g) of title 38, United States Code, is*  
 10 *amended by striking out “September 30, 1998” and insert-*  
 11 *ing in lieu thereof “September 30, 2002”.*

12 **SEC. 8015. LIMITATION ON PENSION FOR CERTAIN RECIPI-**  
 13 **ENTS OF MEDICAID-COVERED NURSING**  
 14 **HOME CARE.**

15 *Section 5503(f)(7) of title 38, United States Code, is*  
 16 *amended by striking out “September 30, 1998” and insert-*  
 17 *ing in lieu thereof “September 30, 2002”.*

18 ***Subtitle B—Copayments and***  
 19 ***Medical Care Cost Recovery***

20 **SEC. 8021. AUTHORITY TO REQUIRE THAT CERTAIN VETER-**  
 21 **ANS MAKE COPAYMENTS IN EXCHANGE FOR**  
 22 **RECEIVING HEALTH CARE BENEFITS.**

23 *(a) HOSPITAL AND MEDICAL CARE.—Section 8013(e)*  
 24 *of the Omnibus Budget Reconciliation Act of 1990 (38*  
 25 *U.S.C. 1710 note) is amended by striking out “September*

1 30, 1998” and inserting in lieu thereof “September 30,  
2 2002”.

3 (b) *OUTPATIENT MEDICATIONS*.—Section 1722A(c) of  
4 title 38, United States Code, is amended by striking out  
5 “September 30, 1998” and inserting in lieu thereof “Sep-  
6 tember 30, 2002”.

7 **SEC. 8022. MEDICAL CARE COST RECOVERY AUTHORITY.**

8 Section 1729(a)(2)(E) of title 38, United States Code,  
9 is amended by striking out “October 1, 1998” and inserting  
10 in lieu thereof “October 1, 2002”.

11 **SEC. 8023. DEPARTMENT OF VETERANS AFFAIRS MEDICAL-**  
12 **CARE RECEIPTS.**

13 (a) *ALLOCATION OF RECEIPTS*.—(1) Chapter 17 of  
14 title 38, United States Code, is amended by inserting after  
15 section 1729 the following new section:

16 **“§1729A. Department of Veterans Affairs Medical**  
17 **Care Collections Fund**

18 “(a) There is in the Treasury a fund to be known as  
19 the Department of Veterans Affairs Medical Care Collec-  
20 tions Fund.

21 “(b) Amounts recovered or collected after June 30,  
22 1997, under any of the following provisions of law shall  
23 be deposited in the fund:

24 “(1) Section 1710(f) of this title.

25 “(2) Section 1710(g) of this title.

1           “(3) Section 1711 of this title.

2           “(4) Section 1722A of this title.

3           “(5) Section 1729 of this title.

4           “(6) Public Law 87–693, popularly known as  
5           the ‘Federal Medical Care Recovery Act’ (42 U.S.C.  
6           2651 et seq.), to the extent that a recovery or collec-  
7           tion under that law is based on medical care and  
8           services furnished under this chapter.

9           “(c)(1) Subject to the provisions of appropriations  
10          Acts, amounts in the fund shall be available to the Secretary  
11          for the following purposes:

12               “(A) Furnishing medical care and services under  
13               this chapter, to be available during any fiscal year for  
14               the same purposes and subject to the same limitations  
15               as apply to amounts appropriated for that fiscal year  
16               for medical care.

17               “(B) Expenses of the Department for the identi-  
18               fication, billing, auditing, and collection of amounts  
19               owed the United States by reason of medical care and  
20               services furnished under this chapter.

21           “(2) Amounts available under paragraph (1) shall be  
22          available only for the purposes set forth in that paragraph.

23           “(d) The Secretary shall ensure that the amount made  
24          available to a Veterans Integrated Service Network in a fis-  
25          cal year from amounts in the fund is an amount equal to

1 *the amount recovered or collected by the Veterans Integrated*  
2 *Service Network under a provision of law referred to in sub-*  
3 *section (b) during the fiscal year.”.*

4 (2) *The table of sections at the beginning of such chap-*  
5 *ter is amended by inserting after the item relating to section*  
6 *1729 the following new item:*

*“1729A. Department of Veterans Affairs Medical Care Collections Fund.”.*

7 (b) *CONFORMING AMENDMENTS.—Chapter 17 of such*  
8 *title is amended as follows:*

9 (1) *Section 1710(f) is amended by striking out*  
10 *paragraph (4) and redesignating paragraph (5) as*  
11 *paragraph (4).*

12 (2) *Section 1710(g) is amended by striking out*  
13 *paragraph (4).*

14 (3) *Section 1722A(b) is amended by striking out*  
15 *“Department of Veterans Affairs Medical-Care Cost*  
16 *Recovery Fund” and inserting in lieu thereof “De-*  
17 *partment of Veterans Affairs Medical Care Collections*  
18 *Fund”.*

19 (4) *Section 1729 is amended by striking out sub-*  
20 *section (g).*

21 (c) *DISPOSITION OF FUNDS IN MEDICAL-CARE COST*  
22 *RECOVERY FUND.—The amount of the unobligated balance*  
23 *remaining in the Department of Veterans Affairs Medical-*  
24 *Care Cost Recovery Fund (established pursuant to section*  
25 *1729(g)(1) of title 38, United States Code) at the close of*

1 *June 30, 1997, shall be deposited, not later than December*  
2 *31, 1997, in the Department of Veterans Affairs Medical*  
3 *Care Collections Fund established by section 1729A(a) of*  
4 *title 38, United States Code, as added by subsection (a).*

5 ***Subtitle C—Other Matters***

6 ***SEC. 8031. ROUNDING DOWN OF COST-OF-LIVING ADJUST-***  
7 ***MENTS IN COMPENSATION AND DIC RATES IN***  
8 ***FISCAL YEARS 1998 THROUGH 2002.***

9 *(a) COMPENSATION COLAS.—(1) Chapter 11 of title*  
10 *38, United States Code, is amended by inserting after sec-*  
11 *tion 1102 the following new section:*

12 ***“§ 1103. Cost-of-living adjustments***

13 *“(a) In the computation of cost-of-living adjustments*  
14 *for fiscal years 1998 through 2002 in the rates of, and dol-*  
15 *lar limitations applicable to, compensation payable under*  
16 *this chapter, such adjustments shall be made by a uniform*  
17 *percentage that is no more than the percentage equal to the*  
18 *social security increase for that fiscal year, with all in-*  
19 *creased monthly rates and limitations (other than increased*  
20 *rates or limitations equal to a whole dollar amount) round-*  
21 *ed down to the next lower whole dollar amount.*

22 *“(b) For purposes of this section, the term ‘social secu-*  
23 *rity increase’ means the percentage by which benefit*  
24 *amounts payable under title II of the Social Security Act*  
25 *(42 U.S.C. 401 et seq.) are increased for any fiscal year*

1 *as a result of a determination under section 215(i) of such*  
2 *Act (42 U.S.C. 415(i)).”*

3 *(2) The table of sections at the beginning of such chap-*  
4 *ter is amended by inserting after the item relating to section*  
5 *1102 the following new item:*

*“1103. Cost-of-living adjustments.”*

6 *(b) DIC COLAs.—(1) Chapter 13 of title 38, United*  
7 *States Code, is amended by inserting after section 1302 the*  
8 *following new section:*

9 ***“§ 1303. Cost-of-living adjustments***

10 *“(a) In the computation of cost-of-living adjustments*  
11 *for fiscal years 1998 through 2002 in the rates of depend-*  
12 *ency and indemnity compensation payable under this chap-*  
13 *ter, such adjustments (except as provided in subsection (b))*  
14 *shall be made by a uniform percentage that is no more than*  
15 *the percentage equal to the social security increase for that*  
16 *fiscal year, with all increased monthly rates (other than in-*  
17 *creased rates equal to a whole dollar amount) rounded down*  
18 *to the next lower whole dollar amount.*

19 *“(b)(1) Cost-of-living adjustments for each of fiscal*  
20 *years 1998 through 2002 in old-law DIC rates shall be in*  
21 *a whole dollar amount that is no greater than the amount*  
22 *by which the new-law DIC rate is increased for that fiscal*  
23 *year as determined under subsection (a).*

24 *“(2) For purposes of paragraph (1):*

1           “(A) *The term ‘old-law DIC rates’ means the*  
2           *dollar amounts in effect under section 1311(a)(3) of*  
3           *this title.*

4           “(B) *The term ‘new-law DIC rate’ means the*  
5           *dollar amount in effect under section 1311(a)(1) of*  
6           *this title.*

7           “(C) *For purposes of this section, the term ‘social secu-*  
8           *urity increase’ means the percentage by which benefit*  
9           *amounts payable under title II of the Social Security Act*  
10           *(42 U.S.C. 401 et seq.) are increased for any fiscal year*  
11           *as a result of a determination under section 215(i) of such*  
12           *Act (42 U.S.C. 415(i)).”.*

13           (2) *The table of sections at the beginning of such chap-*  
14           *ter is amended by inserting after the item relating to section*  
15           *1302 the following new item:*

          “1303. *Cost-of-living adjustments.*”.

16   **SEC. 8032. INCREASE IN AMOUNT OF HOME LOAN FEES FOR**  
17                           **THE PURCHASE OF REPOSSESSED HOMES**  
18                           **FROM THE DEPARTMENT OF VETERANS AF-**  
19                           **FAIRS.**

20           Section 3729(a) of title 38, United States Code, is  
21           amended—

22                   (1) *in paragraph (2)—*

23                           (A) *in subparagraph (A), by striking out*  
24                           *“or 3733(a)”;*

1           (B) in subparagraph (D), by striking out  
2           “and” at the end;

3           (C) in subparagraph (E), by striking out  
4           the period at the end and inserting in lieu there-  
5           of “; and”; and

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

7           “(F) in the case of a loan made under section  
8           3733(a) of this title, the amount of such fee shall be  
9           2.25 percent of the total loan amount.”; and

10          (2) in paragraph (4), as amended by section  
11          8012(1) of this Act, by striking out “or (E)” and in-  
12          serting in lieu thereof “(E), or (F)”.

13 **SEC. 8033. WITHHOLDING OF PAYMENTS AND BENEFITS.**

14          (a) **NOTICE REQUIRED IN LIEU OF CONSENT OR**  
15 **COURT ORDER.**—Section 3726 of title 38, United States  
16 Code, is amended—

17           (1) by inserting “(a)” before “No officer”; and

18           (2) by striking out “unless” and all that follows  
19           and inserting in lieu thereof the following: “unless the  
20           Secretary provides such veteran or surviving spouse  
21           with notice by certified mail with return receipt re-  
22           quested of the authority of the Secretary to waive the  
23           payment of indebtedness under section 5302(b) of this  
24           title.

1       “(b) *If the Secretary does not waive the entire amount*  
2 *of the liability, the Secretary shall then determine whether*  
3 *the veteran or surviving spouse should be released from li-*  
4 *ability under section 3713(b) of this title.*

5       “(c) *If the Secretary determines that the veteran or*  
6 *surviving spouse should not be released from liability, the*  
7 *Secretary shall notify the veteran or surviving spouse of*  
8 *that determination and provide a notice of the procedure*  
9 *for appealing that determination, unless the Secretary has*  
10 *previously made such determination and notified the vet-*  
11 *eran or surviving spouse of the procedure for appealing the*  
12 *determination.*”.

13       (b) *CONFORMING AMENDMENT.—Section 5302(b) of*  
14 *such title is amended by inserting “with return receipt re-*  
15 *quested” after “certified mail”.*

16       (c) *EFFECTIVE DATE.—The amendments made by this*  
17 *section shall apply with respect to any indebtedness to the*  
18 *United States arising pursuant to chapter 37 of title 38,*  
19 *United States Code, before, on, or after the date of enact-*  
20 *ment of this Act.*

Attest:

*Secretary.*

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 2015**

---

---

**AMENDMENT**

---

---

June 26, 1997

Ordered to be printed as passed