

106TH CONGRESS
1ST SESSION

H. R. 3085

To provide discretionary spending offsets for fiscal year 2000.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 14, 1999

Mr. TERRY (for himself and Mr. DEMINT) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Transportation and Infrastructure, Resources, Commerce, Education and the Workforce, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide discretionary spending offsets for fiscal year 2000.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Discretionary Spend-
5 ing Offsets Act for Fiscal Year 2000”.

6 **SEC. 2. TABLE OF CONTENTS.**

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

Sec. 1. Short title.

Sec. 2. Table of contents.

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Subtitle A—Agriculture

PART I—FOOD SAFETY INSPECTION AND ENFORCEMENT FEES

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- Sec. 112. Fees for inspection of livestock, meat, and meat products and related activities.
- Sec. 113. Fees for inspection of egg products and related activities.
- Sec. 114. Conforming amendments.

PART II—ASSESSMENTS UNDER TOBACCO PROGRAM

- Sec. 121. Extension and increase in tobacco assessment.

PART III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE COST-SHARE FEES

- Sec. 131. Biotechnology testing permit user fees regarding plant pests.
- Sec. 132. Biotechnology testing permit user fees regarding plants.
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PART IV—GRAIN INSPECTION, PACKERS, AND STOCKYARD ADMINISTRATION LICENSING FEE

- Sec. 141. Grain standardization fees.
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PART V—FOREST SERVICE FEES

- Sec. 151. Timber sales preparation user fee.
- Sec. 152. Fees for commercial filming.
- Sec. 153. Timber and special forest products.
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- Sec. 155. Fair market value for recreation concessions.

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PART I—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NAVIGATION SERVICES FEES

- Sec. 211. Navigation services fees.

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- Sec. 221. Fisheries management fees.

PART III—ANALOG TELEVISION SERVICE SIGNAL LEASE FEE

- Sec. 231. Analog television service signal lease fee.

Subtitle C—Education and Labor

PART I—NATIONAL DIRECTORY OF NEW HIRES

- Sec. 311. Matching against NDNH with respect to defaulted loans and overpayments of grants under the Higher Education Act of 1965.

PART II—RECALL OF FEDERAL RESERVES HELD BY GUARANTY AGENCIES

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PART III—EMPLOYER TAX CREDIT USER FEES

Sec. 331. Work opportunity credit and welfare-to-work credit user fees.

Subtitle D—Natural Resource, Energy, and Environment

PART I—NUCLEAR REGULATORY COMMISSION USER FEES AND ANNUAL CHARGES

Sec. 411. Nuclear Regulatory Commission user fees and annual charges.

PART II—FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT FEES

Sec. 421. Federal Insecticide, Fungicide, and Rodenticide Act fees.

Sec. 422. Conforming amendment.

PART III—TOXIC SUBSTANCES CONTROL ACT FEES

Sec. 431. Toxic Substances Control Act fees.

Subtitle E—Revenue

PART I—REINSTATE SUPERFUND TAXES

Sec. 511. Extension of Hazardous Substance Superfund taxes.

PART II—TOBACCO EXCISE TAXES

Sec. 521. Increase in excise taxes on tobacco products.

Sec. 522. Modification of deposit requirement.

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Sec. 531. Customs access fee.

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- Sec. 831. Hazardous materials transportation safety fees.

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- Sec. 841. Commercial accident investigation user fees.

PART V—SURFACE TRANSPORTATION BOARD USER FEES

- Sec. 851. Surface Transportation Board user fees.

PART VI—RAIL SAFETY USER FEES

- Sec. 861. Rail safety inspection user fees.

TITLE II—BUDGET PROVISIONS

- Sec. 2001. Reduction of preexisting balances on paygo scorecard.

1 **TITLE I—OFFSETS FOR**
2 **DISCRETIONARY SPENDING**

3 **Subtitle A—Agriculture**

4 **PART I—FOOD SAFETY INSPECTION AND**
5 **ENFORCEMENT FEES**

6 **SEC. 111. FEES FOR INSPECTION OF POULTRY AND POUL-**
7 **TRY PRODUCTS AND RELATED ACTIVITIES.**

8 (a) **USER FEES AUTHORIZED.**—Section 25 of the
9 Poultry Products Inspection Act (21 U.S.C. 468) is
10 amended to read as follows:

11 **“SEC. 25. FEES FOR INSPECTION OF POULTRY AND POUL-**
12 **TRY PRODUCTS AND RELATED ACTIVITIES.**

13 “(a) **IMPOSITION AND COLLECTION OF FEES.**—Ex-
14 cept as provided in subsection (e), the Secretary shall
15 charge and collect fees in a fair and equitable manner to
16 cover all costs (including the costs of providing inspection
17 services to establishments and of conducting enforcement
18 actions) incurred by the Secretary and the inspection serv-
19 ice to administer this Act.

20 “(b) **COLLECTION OF FEES.**—Fees imposed under
21 subsection (a), as well as late payment penalties and inter-
22 est with respect to the fees, shall be collected by the Sec-
23 retary and deposited in a special fund in the Treasury of
24 the United States.

1 “(c) AVAILABILITY AND USE OF FUNDS.—Amounts
2 in the special fund established under subsection (b) are
3 available to the Secretary for obligation only to the extent
4 and in the amount provided in advance in appropriation
5 Acts. Amounts so appropriated shall remain available to
6 the Secretary until expended to pay for the costs of activi-
7 ties for which a fee is imposed under subsection (a).

8 “(d) SECURITY.—The Secretary may require a per-
9 son that is assessed a fee under subsection (a) to provide
10 security to ensure that the Secretary receives the fees im-
11 posed under such subsection from the person.

12 “(e) FEE EXCEPTION FOR CERTAIN ACTIVITIES.—
13 Subsection (a) shall not apply to the costs associated with
14 cooperating with State agencies and other Federal agen-
15 cies in accordance with section 5 and the costs of the Safe
16 Meat and Poultry Inspection Panel incurred under section
17 30.”.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
19 26 of the Poultry Products Inspection Act (21 U.S.C.
20 469) is amended to read as follows:

21 **“SEC. 26. AUTHORIZATION OF APPROPRIATIONS.**

22 “There are hereby authorized to be appropriated such
23 sums as may be necessary to carry out sections 5 and
24 30.”.

1 (c) ANNUAL REPORT.—Section 27 of the Poultry
2 Products Inspection Act (21 U.S.C. 470) is amended to
3 read as follows:

4 **“SEC. 27. ANNUAL REPORT.**

5 “The Secretary shall annually report to the Com-
6 mittee on Agriculture of the House of Representatives and
7 the Committee on Agriculture, Nutrition, and Forestry of
8 the Senate with respect to the following:

9 “(1) The slaughter of poultry subject to this
10 Act.

11 “(2) The preparation, storage, handling, and
12 distribution of poultry parts and poultry products.

13 “(3) The inspection of establishments operated
14 in connection with the activities specified in para-
15 graphs (1) and (2).

16 “(4) Fee setting activities authorized under sec-
17 tion 25.

18 “(5) The operations under and the effectiveness
19 of this Act.”.

20 **SEC. 112. FEES FOR INSPECTION OF LIVESTOCK, MEAT,**
21 **AND MEAT PRODUCTS AND RELATED ACTIVI-**
22 **TIES.**

23 (a) USER FEES AUTHORIZED.—Section 411 of the
24 Federal Meat Inspection Act (21 U.S.C. 680) is amended
25 to read as follows:

1 **“SEC. 411. FEES FOR INSPECTION OF LIVESTOCK, MEAT,**
2 **AND MEAT PRODUCTS AND RELATED ACTIVI-**
3 **TIES.**

4 “(a) IMPOSITION AND COLLECTION OF FEES.—Ex-
5 cept as provided in subsection (e), the Secretary shall
6 charge and collect fees in a fair and equitable manner to
7 cover all costs (including the costs of providing inspection
8 services to establishments and of conducting enforcement
9 actions) incurred by the Secretary to administer this Act
10 and section 17 of the Wholesome Meat Act (21 U.S.C.
11 691).

12 “(b) COLLECTION OF FEES.—Fees imposed under
13 subsection (a), as well as late payment penalties and inter-
14 est with respect to the fees, shall be collected by the Sec-
15 retary and deposited in a special fund in the Treasury of
16 the United States.

17 “(c) AVAILABILITY AND USE OF FUNDS.—Amounts
18 in the special fund established under subsection (b) are
19 available to the Secretary for obligation only to the extent
20 and in the amount provided in advance in appropriation
21 Acts. Amounts so appropriated shall remain available to
22 the Secretary until expended to pay for the costs of activi-
23 ties for which a fee is imposed under subsection (a).

24 “(d) SECURITY.—The Secretary may require a per-
25 son that is assessed a fee under subsection (a) to provide

1 security to ensure that the Secretary receives the fees im-
2 posed under such subsection from the person.

3 “(e) FEE EXCEPTION FOR CERTAIN ACTIVITIES.—
4 Subsection (a) shall not apply to the costs associated with
5 cooperating with State agencies and other Federal agen-
6 cies in accordance with section 301 and the costs of the
7 Safe Meat and Poultry Inspection Panel established under
8 section 410.”.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—The
10 Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is
11 amended—

12 (1) in section 410 (21 U.S.C. 679a), by striking
13 subsection (i); and

14 (2) by inserting after section 411 (21 U.S.C.
15 680) the following new section:

16 **“SEC. 412. AUTHORIZATION OF APPROPRIATIONS.**

17 “There are hereby authorized to be appropriated such
18 sums as may be necessary to carry out sections 301 and
19 410.”.

20 (c) ANNUAL REPORT.—Section 17 of the Wholesome
21 Meat Act (21 U.S.C. 691) is amended to read as follows:

22 **“SEC. 17. ANNUAL REPORT.**

23 “The Secretary of Agriculture shall annually report
24 to the Committee on Agriculture of the House of Rep-

1 representatives and the Committee on Agriculture, Nutrition,
2 and Forestry of the Senate with respect to the following:

3 “(1) The slaughter of animals subject to the
4 Federal Meat Inspection Act (21 U.S.C. 601 et
5 seq.).

6 “(2) The preparation, storage, handling, and
7 distribution of carcasses, parts thereof, and meat
8 and meat food products of such animals.

9 “(3) The inspection of establishments operated
10 in connection with the activities specified in para-
11 graphs (1) and (2).

12 “(4) Fee setting activities authorized under sec-
13 tion 411 of the Federal Meat Inspection Act.

14 “(5) The operations under and the effectiveness
15 of the Federal Meat Inspection Act.”.

16 **SEC. 113. FEES FOR INSPECTION OF EGG PRODUCTS AND**
17 **RELATED ACTIVITIES.**

18 (a) USER FEES AUTHORIZED.—Section 24 of the
19 Egg Products Inspection Act (21 U.S.C. 1053) is amend-
20 ed to read as follows:

21 **“SEC. 24. FEES FOR INSPECTION OF EGG PRODUCTS AND**
22 **RELATED ACTIVITIES.**

23 “(a) IMPOSITION AND COLLECTION OF FEES.—Ex-
24 cept as provided in subsection (e), the Secretary shall
25 charge and collect fees in a fair and equitable manner to

1 cover all costs (including the costs of providing inspection
2 services to establishments and of conducting enforcement
3 actions) incurred by the Secretary to administer this Act

4 “(b) COLLECTION OF FEES.—Fees imposed under
5 subsection (a), as well as late payment penalties and inter-
6 est with respect to the fees, shall be collected by the Sec-
7 retary and deposited in a special fund in the Treasury of
8 the United States.

9 “(c) AVAILABILITY AND USE OF FUNDS.—Amounts
10 in the special fund established under subsection (b) are
11 available to the Secretary for obligation only to the extent
12 and in the amount provided in advance in appropriation
13 Acts. Amounts so appropriated shall remain available to
14 the Secretary until expended to pay for the costs of activi-
15 ties for which a fee is imposed under subsection (a).

16 “(d) SECURITY.—The Secretary may require a per-
17 son that is assessed a fee under subsection (a) to provide
18 security to ensure that the Secretary receives the fees im-
19 posed under such subsection from the person.

20 “(e) FEE EXCEPTION FOR CERTAIN ACTIVITIES.—
21 Subsection (a) shall not apply to the costs associated with
22 the shell egg surveillance program and the costs of cooper-
23 ating with appropriate State agencies and other govern-
24 mental agencies in accordance with section 9.”.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
2 27 of the Egg Products Inspection Act (21 U.S.C. 1055),
3 to read as follows:

4 **“SEC. 27. AUTHORIZATION OF APPROPRIATIONS.**

5 “Except for the costs of activities supported by fees
6 collected pursuant to section 24, there are authorized to
7 be appropriated such sums as may be necessary to carry
8 out this Act.”.

9 (c) ANNUAL REPORT.—Section 26 of the Egg Prod-
10 ucts Inspection Act (21 U.S.C. 1054) is amended—

11 (1) in paragraph (1), by striking “; and” and
12 inserting a semicolon;

13 (2) in paragraph (2), by striking the period and
14 inserting “; and”; and

15 (3) by inserting at the end the following new
16 paragraph:

17 “(3) the fee setting activities authorized under
18 section 24.”.

19 **SEC. 114. CONFORMING AMENDMENTS.**

20 (a) PAYMENT FOR OVERTIME WORK.—The Act of
21 July 24, 1919 (7 U.S.C. 394), is amended by striking “,
22 and to accept from such establishments,” and all that fol-
23 lows through “for such overtime work”.

24 (b) PAYMENTS OF COST OF MEAT INSPECTION.—
25 The Act of June 5, 1948 (21 U.S.C. 695), is repealed.

1 **PART II—ASSESSMENTS UNDER TOBACCO**

2 **PROGRAM**

3 **SEC. 121. EXTENSION AND INCREASE IN TOBACCO ASSESS-**
4 **MENT.**

5 Section 106 of the Agricultural Act of 1949 (7 U.S.C.
6 1445) is amended by adding at the end the following new
7 subsection:

8 “(h) **TOBACCO MARKETING ASSESSMENT FOR 1999**
9 **AND SUBSEQUENT CROPS.—**

10 “(1) **ASSESSMENT REQUIRED.—**For each crop
11 of tobacco beginning with the 1999 crop for which
12 price support is made available under this Act, each
13 producer and purchaser of the tobacco, and each im-
14 porter of the same kind of tobacco, shall remit to the
15 Commodity Credit Corporation a nonrefundable
16 marketing assessment.

17 “(2) **DETERMINATION OF ASSESSMENT RATE.—**
18 Subject to paragraph (3), the Secretary shall an-
19 nounce the amount per pound due by crop for each
20 kind of tobacco subject to the assessment. The as-
21 sessment, to the maximum extent practicable, shall
22 be established so that the total assessment per
23 pound on each kind of tobacco shall be a standard
24 percentage of the respective national average sup-
25 port level for such kind of tobacco.

1 “(3) REQUIRED COLLECTIONS.—The assess-
2 ment required by this subsection shall be in such
3 amount to produce, to the maximum extent prac-
4 ticable, a total annual collection estimated to be
5 \$60,000,000 in fiscal year 2000.

6 “(4) ALLOCATION OF ASSESSMENT.—

7 “(A) DOMESTIC PRODUCERS.—In the case
8 of domestically produced tobacco, the producer
9 of the tobacco shall pay for each pound of to-
10 bacco the lesser of—

11 “(i) 25 percent of the per pound as-
12 essment amount as determined in para-
13 graph (2); or

14 “(ii) 0.5 percent of the national sup-
15 port price for the tobacco.

16 “(B) PURCHASERS OF DOMESTICALLY
17 PRODUCED TOBACCO.—Purchasers of domesti-
18 cally produced tobacco shall pay the portion of
19 the total assessment on a pound of tobacco
20 which represents the difference between

21 “(i) the total per pound assessment as
22 provided in paragraph (2); and

23 “(ii) the amount of such assessment
24 to be paid by the domestic producer as
25 provided in subparagraph (A).

1 “(C) IMPORTED TOBACCO.—In the case of
2 imported tobacco, the importer shall pay the
3 full amount of the assessment on a pound of to-
4 bacco as provided in paragraph (2).

5 “(5) COLLECTION OF ASSESSMENTS.—Assess-
6 ments imposed under this subsection, as well as late
7 payment penalties and interest with respect to the
8 assessments, shall be collected by the Secretary and
9 deposited in a special fund in the Treasury of the
10 United States.

11 “(6) AVAILABILITY AND USE OF FUNDS.—
12 Amounts in the special fund established under para-
13 graph (5) are available to the Secretary for obliga-
14 tion only to the extent and in the amount provided
15 in advance in appropriation Acts. Amounts so appro-
16 priated shall remain available to the Secretary until
17 expended to reimburse the Department of Agri-
18 culture for costs incurred for administration and
19 other activities in support of tobacco.

20 “(7) RELATION TO PREVIOUS ASSESSMENT AU-
21 THORITY.—Paragraphs (2) and (3) of subsection (g)
22 shall apply to this subsection.”.

1 **PART III—ANIMAL AND PLANT HEALTH**
2 **INSPECTION SERVICE COST-SHARE FEES**
3 **SEC. 131. BIOTECHNOLOGY TESTING PERMIT USER FEES**
4 **REGARDING PLANT PESTS.**

5 The Federal Plant Pest Act (7 U.S.C. 150aa et seq.)
6 is amended by adding at the end the following new section:

7 **“SEC. 112. FEES FOR BIOTECHNOLOGY-RELATED SERVICES.**

8 “(a) FEES REQUIRED.—The Secretary shall pre-
9 scribe and collect to cover the costs of carrying out the
10 provisions of this title that relate to the following:

11 “(1) The issuance of any biotechnology permit.

12 “(2) The acknowledgment of any biotechnology
13 notification.

14 “(3) The review of any biotechnology petition.

15 “(4) The provision of any other biotechnology
16 service, including the review of organisms and prod-
17 ucts created through biotechnology.

18 “(b) EXEMPTIONS.—The Secretary may exempt cer-
19 tain persons from paying fees prescribed under this sec-
20 tion, including persons conducting research and develop-
21 ment activities that receive State or Federal funds and
22 have no commercial intent.

23 “(c) LIABILITY.—Any person for whom an activity is
24 performed pursuant to this title for which a charge is au-
25 thorized shall be liable for payment of fees as prescribed
26 by the Secretary.

1 “(d) SECURITY.—The Secretary may require a per-
2 son that is assessed a fee under subsection (a) to provide
3 security to ensure that the Secretary receives the fees im-
4 posed under such subsection from the person.

5 “(e) SUSPENSION OF SERVICE.—The Secretary may
6 suspend performance of services to persons who have
7 failed to pay fees, late payment fees, late payment pen-
8 alties, or accrued interest incurred under this section.

9 “(f) COLLECTION OF FEES.—Fees imposed under
10 subsection (a), as well as late payment penalties and inter-
11 est with respect to the fees, shall be collected by the Sec-
12 retary and deposited in a special fund in the Treasury of
13 the United States.

14 “(g) AVAILABILITY AND USE OF FUNDS.—Amounts
15 in the special fund established under subsection (f) are
16 available to the Secretary for obligation only to the extent
17 and in the amount provided in advance in appropriation
18 Acts. Amounts so appropriated shall remain available to
19 the Secretary until expended to pay for the costs of activi-
20 ties for which a fee is imposed under subsection (a).

21 “(h) DEFINITION OF PERSON.—In this section, the
22 term ‘person’ means an individual, corporation, partner-
23 ship, trust, association, or any other public or private enti-
24 ty, except that the term does not include Federal entities,
25 or any officer, employee, or agent of a Federal entity.”.

1 **SEC. 132. BIOTECHNOLOGY TESTING PERMIT USER FEES**
2 **REGARDING PLANTS.**

3 The Act of August 20, 1912 (commonly known as
4 the Plant Quarantine Act) is amended by inserting after
5 section 11 the following new section:

6 **“SEC. 12. FEES FOR BIOTECHNOLOGY-RELATED SERVICES.**

7 “(a) FEES REQUIRED.—The Secretary shall pre-
8 scribe and collect to cover the costs of carrying out the
9 provisions of this title that relate to the following:

10 “(1) The issuance of any biotechnology permit.

11 “(2) The acknowledgment of any biotechnology
12 notification.

13 “(3) The review of any biotechnology petition.

14 “(4) The provision of any other biotechnology
15 service, including the review of organisms and prod-
16 ucts created through biotechnology.

17 “(b) EXEMPTIONS.—The Secretary may exempt cer-
18 tain persons from paying fees prescribed under this sec-
19 tion, including persons conducting research and develop-
20 ment activities that receive State or Federal funds and
21 have no commercial intent.

22 “(c) LIABILITY.—Any person for whom an activity is
23 performed pursuant to this title for which a charge is au-
24 thorized shall be liable for payment of fees as prescribed
25 by the Secretary.

1 “(d) SECURITY.—The Secretary may require a per-
2 son that is assessed a fee under subsection (a) to provide
3 security to ensure that the Secretary receives the fees im-
4 posed under such subsection from the person.

5 “(e) SUSPENSION OF SERVICE.—The Secretary may
6 suspend performance of services to persons who have
7 failed to pay fees, late payment fees, late payment pen-
8 alties, or accrued interest incurred under this section.

9 “(f) COLLECTION OF FEES.—Fees imposed under
10 subsection (a), as well as late payment penalties and inter-
11 est with respect to the fees, shall be collected by the Sec-
12 retary and deposited in a special fund in the Treasury of
13 the United States.

14 “(g) AVAILABILITY AND USE OF FUNDS.—Amounts
15 in the special fund established under subsection (f) are
16 available to the Secretary for obligation only to the extent
17 and in the amount provided in advance in appropriation
18 Acts. Amounts so appropriated shall remain available to
19 the Secretary until expended to pay for the costs of activi-
20 ties for which a fee is imposed under subsection (a).

21 “(h) DEFINITION OF PERSON.—In this section, the
22 term ‘person’ means an individual, corporation, partner-
23 ship, trust, association, or any other public or private enti-
24 ty, except that the term does not include Federal entities,
25 or any officer, employee, or agent of a Federal entity.”.

1 **SEC. 133. FEES FOR LICENSE AND REGISTRATION SERV-**
2 **ICES UNDER ANIMAL WELFARE ACT.**

3 Section 23 of the Animal Welfare Act (7 U.S.C.
4 2153) is amended to read as follows:

5 **“SEC. 23. FUNDS FOR ADMINISTRATION OF ACT.**

6 “(a) IMPOSITION AND COLLECTION OF FEES.—Ex-
7 cept as provided in subsection (b), the Secretary shall pre-
8 scribe, adjust, and collect fees to cover the costs incurred
9 by the Secretary for activities related to the following:

10 “(1) The review and maintenance of licenses
11 and registrations issued under this Act.

12 “(2) The review of applications for a license or
13 registration under this Act.

14 “(b) EXCEPTIONS.—The Secretary shall exempt Fed-
15 eral entities from any fee prescribed under subsection (a).

16 “(c) SECURITY.—The Secretary may require a person
17 that is assessed a fee under this section to provide security
18 to ensure that the Secretary receives fees authorized under
19 this section from such person.

20 “(d) COLLECTION OF FEES.—Fees imposed under
21 subsection (a), as well as late payment penalties and inter-
22 est with respect to the fees, shall be collected by the Sec-
23 retary and deposited in a special fund in the Treasury of
24 the United States.

25 “(e) AVAILABILITY AND USE OF FUNDS.—Amounts
26 in the special fund established under subsection (d) are

1 available to the Secretary for obligation only to the extent
2 and in the amount provided in advance in appropriation
3 Acts. Amounts so appropriated shall remain available to
4 the Secretary until expended to pay for the costs of activi-
5 ties for which a fee is imposed under subsection (a).

6 “(f) AUTHORIZATION OF APPROPRIATIONS.—Except
7 for the costs of activities supported by fees prescribed
8 under subsection (a), there are authorized to be appro-
9 priated such sums as may be necessary to carry out this
10 Act.”.

11 **PART IV—GRAIN INSPECTION, PACKERS, AND**
12 **STOCKYARD ADMINISTRATION LICENSING FEE**

13 **SEC. 141. GRAIN STANDARDIZATION FEES.**

14 (a) FEES FOR STANDARDIZATION ACTIVITIES.—Sec-
15 tion 16(i) of the United States Grain Standards Act (7
16 U.S.C. 87e(i)) is amended—

17 (1) in paragraph (2)—

18 (A) by striking “standardization” and in-
19 serting “compliance activities, methods develop-
20 ment,”; and

21 (B) by adding at the end the following new
22 sentence: “Under such regulations as the Sec-
23 retary may prescribe, fees for standardization
24 activities shall, to the extent practicable, be col-
25 lected from persons who benefit from such ac-

1 tivities, including first purchasers, processors,
2 and grain warehouseman.”; and

3 (2) by adding at the end the following new
4 paragraph:

5 “(4) In paragraph (2):

6 “(A) The term ‘first purchaser’ means any per-
7 son buying or otherwise acquiring from a producer
8 grain that was produced by that producer.

9 “(B) The term ‘producer’ means any person en-
10 gaged in the growing of grain in the United States
11 who has an ownership interest and a risk of loss re-
12 garding the grain.”.

13 (b) CONFORMING AMENDMENTS.—The United States
14 Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

15 (1) in section 7D (7 U.S.C. 79d), by striking
16 “standardization” and inserting “methods develop-
17 ment”; and

18 (2) in section 19 (7 U.S.C. 87h), by striking
19 “standardization” and inserting “methods develop-
20 ment”.

21 **SEC. 142. PACKERS AND STOCKYARD LICENSING FEE.**

22 (a) IN GENERAL.—The Packers and Stockyards Act,
23 1921, is amended—

1 (1) by redesignating sections 414 and 415 (7
2 U.S.C. 228c and 229) as sections 416 and 417, re-
3 spectively; and

4 (2) by inserting after section 413 (7 U.S.C.
5 228b-4) the following new sections:

6 **“SEC. 414. LICENSES AND FEES.**

7 “(a) LICENSE REQUIREMENT.—No person shall at
8 any time be engaged in the business of a packer, live poul-
9 try dealer, stockyard owner, market agency, or dealer
10 without a valid and effective license issued in accordance
11 with this section and section 415.

12 “(b) APPLICATION FOR A LICENSE.—Any person de-
13 siring a license required by subsection (a) shall submit an
14 application to the Secretary, consistent with such rules as
15 the Secretary may prescribe.

16 “(c) LICENSE FEES.—

17 “(1) ESTABLISHMENT.—The Secretary shall es-
18 tablish a fee for the issuance of licenses required by
19 subsection (a). Upon the filing of the application for
20 the license, and annually thereafter so long as the li-
21 cense is in effect, the applicant shall pay the license
22 fee.

23 “(2) RATE.—The amount of the fee shall be es-
24 tablished at a rate sufficient so that the total
25 amount collected in a fiscal year covers all costs in-

1 curred by the Department of Agriculture to admin-
2 ister this Act.

3 “(3) SECURITY.—The Secretary may require a
4 person that is assessed a fee under this subsection
5 to provide security to ensure that the Secretary re-
6 ceives the fees required from the person.

7 “(d) COLLECTION OF FEES.—Fees imposed under
8 subsection (c), as well as late payment penalties and inter-
9 est with respect to the fees, shall be collected by the Sec-
10 retary and deposited in a special fund in the Treasury of
11 the United States.

12 “(e) AVAILABILITY AND USE OF FUNDS.—Amounts
13 in the special fund established under subsection (d) are
14 available to the Secretary for obligation only to the extent
15 and in the amount provided in advance in appropriation
16 Acts. Amounts so appropriated shall remain available to
17 the Secretary until expended to carry out this Act.

18 “(f) VIOLATIONS.—

19 “(1) PENALTIES.—Any person who violates any
20 provision of this section shall be liable for a penalty
21 of not more than \$1,000 for each such offense and
22 not more than \$250 for each day it continues, which
23 shall accrue to the United States and may be recov-
24 ered in a civil suit brought by the United States.

1 “(2) SETTLEMENT.—The Secretary may permit
2 a person to settle such person’s liability in the mat-
3 ter by the payment of fees due for the period cov-
4 ered by such violation and an additional sum as a
5 late payment penalty, not in excess of \$250, to be
6 fixed by the Secretary, upon a showing satisfactory
7 to the Secretary, that such violation was not willful
8 but was due to inadvertence.

9 **“SEC. 415. TERMS OF LICENSE.**

10 “(a) RIGHTS OF LICENSEE.—Whenever an applicant
11 has paid the prescribed fee under section 414, the Sec-
12 retary, except as provided elsewhere in this Act, shall issue
13 to such applicant a license, which shall entitle the licensee
14 to do business unless and until the license is terminated
15 or suspended by the Secretary in accordance with the pro-
16 visions of this Act.

17 “(b) AUTOMATIC TERMINATION OF LICENSE.—

18 “(1) FAILURE TO PAY RENEWAL FEE.—Except
19 as provided in subparagraph (B), a license issued
20 under subsection (a) shall automatically terminate
21 on the anniversary date of the issuance of the license
22 if the annual fee is unpaid by the anniversary date.

23 “(2) EXCEPTION.—A licensee may obtain a re-
24 newal of the license at any time within 30 days after
25 the anniversary date of the license by paying an ad-

1 ditional late payment fee as determined by the Sec-
2 retary.

3 “(3) NOTIFICATION.—Notice of the necessity of
4 paying the annual fee shall be mailed to the licensee
5 at least 30 days before the anniversary date of the
6 license.

7 “(c) DENIAL OF APPLICATION FOR A LICENSE.—The
8 Secretary shall refuse to issue a license to an applicant
9 if the Secretary finds that the applicant is a person who—

10 “(1) has a license currently under suspension;

11 “(2) fails to meet the requirements for licensing
12 as set forth in the Act and regulations prescribed by
13 the Secretary; or

14 “(3) is found, after opportunity for hearing, to
15 be unfit to engage in the activity for which applica-
16 tion has been made because the applicant has en-
17 gaged in any practice of the character prohibited by
18 this Act.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) PACKERS AND STOCKYARDS ACT.—Section
21 303 of the Packers and Stockyards Act, 1921 (7
22 U.S.C. 203), is amended by striking “he has reg-
23 istered with the Secretary,” and all that follows
24 through the end of the section and inserting “the

1 person has a valid license as provided in sections
2 414 and 415.”.

3 (2) DEPARTMENT OF AGRICULTURE APPROPRIATION ACT, 1944.—The eleventh paragraph under
4 the heading “MARKETING SERVICE” in the Department of Agriculture Appropriation Act, 1944 (7
5 U.S.C. 204), is amended—
6 U.S.C. 204), is amended—
7 U.S.C. 204), is amended—

8 (A) by striking “registrant” the first time
9 it appears and inserting “market agency or
10 dealer”; and

11 (B) striking “such registrant” and inserting
12 “the license of such market agency or dealer”.
13 “the license of such market agency or dealer”.

14 **PART V—FOREST SERVICE FEES**

15 **SEC. 151. TIMBER SALES PREPARATION USER FEE.**

16 Section 14 of the National Forest Management Act
17 of 1976 (16 U.S.C. 472a) is amended by adding at the
18 end the following new subsection:

19 “(j) TIMBER SALE PREPARATION USER FEE.—

20 “(1) FEE REQUIRED.—The Secretary of Agriculture shall implement a pilot program to charge
21 and collect fees, at the time of the timber contract
22 award, to cover the direct costs to the Department
23 of Agriculture of timber sale preparation and har-
24 of Agriculture of timber sale preparation and har-

1 vest administration, including timber design, layout,
2 and marking.

3 “(2) CERTAIN COSTS AND SALES EXCLUDED.—
4 Paragraph (1) shall not apply to timber sale prepara-
5 tion and harvest administration costs related to
6 the following:

7 “(A) An environmental analysis under the
8 National Environmental Policy Act of 1969 (42
9 U.S.C. 4321 et seq.).

10 “(B) Stewardship activities, including ac-
11 tivities under section 347 of the Department of
12 the Interior and Related Agencies Appropria-
13 tions Act, 1999 (as contained in section 101(e)
14 of division A of Public Law 105–277; 16 U.S.C.
15 2104 note).

16 “(C) Timber sales when the Secretary de-
17 termines that the fee would adversely affect the
18 marketability of the timber sale, or the ability
19 of a small business concern (as defined in the
20 Small Business Act (15 U.S.C. 631 et seq.)) to
21 bid competitively on the timber sale.

22 “(3) COLLECTION OF FEES.—Fees imposed
23 under this section (c) shall be collected by the Sec-
24 retary and deposited in a special fund in the Treas-
25 ury of the United States.

1 “(4) AVAILABILITY AND USE OF FUNDS.—
2 Amounts in the special fund established under para-
3 graph (3) are available to the Secretary for obliga-
4 tion only to the extent and in the amount provided
5 in advance in appropriation Acts. Amounts so appro-
6 priated shall remain available to the Secretary until
7 expended to pay for the activities referred to in
8 paragraph (1).

9 “(5) TERM.—The authority to collect fees
10 under this subsection shall terminate on September
11 30, 2007.”.

12 **SEC. 152. FEES FOR COMMERCIAL FILMING.**

13 (a) DEFINITION OF COMMERCIAL FILMING.—In this
14 section, the term “commercial filming” means the making
15 of any motion picture, television production, soundtrack,
16 still photography, or similar project for commercial pur-
17 poses.

18 (b) COLLECTION AND USE OF FUNDS.—

19 (1) IN GENERAL.—Rental fees paid to the Sec-
20 retary of Agriculture for special use authorizations
21 issued under the eleventh paragraph under the head-
22 ing “SURVEYING THE PUBLIC LANDS” in the Act of
23 June 4, 1897 (16 U.S.C. 551), and issued under
24 part 251, subpart B of title 36, Code of Federal
25 Regulations, for commercial filming on National

1 Forest System lands shall be deposited into a special
2 account in the Treasury of the United States.

3 (2) AUTHORITY TO USE FUNDS.—Funds depos-
4 ited in the Treasury in accordance with paragraph
5 (1) shall be available for expenditure by the Sec-
6 retary of Agriculture, without further appropriation
7 and until expended, for the administration and man-
8 agement of special uses on National Forest System
9 lands.

10 **SEC. 153. TIMBER AND SPECIAL FOREST PRODUCTS.**

11 Section 14 of the National Forest Management Act
12 of 1976 (16 U.S.C. 472a) is amended by inserting after
13 subsection (j), as added by section 151, the following new
14 subsection:

15 “(k) FAIR MARKET VALUE FOR SPECIAL FOREST
16 PRODUCTS.—

17 “(1) DEFINITION OF SPECIAL FOREST PROD-
18 UCT.—In this subsection, the term ‘special forest
19 product’ means any vegetation or other life form,
20 such as mushrooms and fungi, that grows on Na-
21 tional Forest System lands, as provided in regula-
22 tions issued under this subsection by the Secretary
23 of Agriculture.

24 “(2) FEES REQUIRED.—The Secretary of Agri-
25 culture shall charge and collect fees in an amount

1 determined to be appropriate by the Secretary in
2 regulations based on not less than the fair market
3 value for special forest products harvested or col-
4 lected on National Forest System lands and the
5 costs, as appropriate, to the Department of Agri-
6 culture associated with granting, modifying, or mon-
7 itoring the authorization for harvest or collection of
8 these products. The Secretary shall establish ap-
9 praisal methods and bidding procedures to ensure
10 that the amounts collected for special forest prod-
11 ucts are not less than fair market value.

12 “(3) WAIVER.—The Secretary may waive the
13 application of paragraph (2) pursuant to such regu-
14 lations as the Secretary may prescribe, such as waiv-
15 ers for harvest and collection for personal use, for
16 religious purposes, pursuant to treaty rights, or for
17 other specified uses.

18 “(4) COLLECTION OF FEES.—Fees collected
19 under this subsection shall be deposited into a spe-
20 cial account in the Treasury of the United States.

21 “(5) AUTHORITY TO USE FUNDS.—Funds de-
22 posited in the special account in the Treasury in ac-
23 cordance with paragraph (4) in excess of the amount
24 collected for special forest products during fiscal
25 year 1999 shall be available for expenditure by the

1 Secretary of Agriculture on and after October 1,
2 1999, without further appropriation and until ex-
3 pended, to pay for the costs of conducting inven-
4 tories of special forest products, granting, modifying,
5 or monitoring the authorization for harvest or collec-
6 tion of the special forest products, including the
7 costs of any environmental or other analysis, moni-
8 toring and assessing the impacts of harvest levels
9 and methods, and for restoration activities, including
10 any necessary revegetation.

11 “(6) TREATMENT OF FEES.—Amounts collected
12 under this subsection shall not be taken into account
13 for the purposes of the following laws:

14 “(A) The sixth paragraph under the head-
15 ing ‘FOREST SERVICE’ in the Act of May 23,
16 1908 (16 U.S.C. 500) and section 13 of the Act
17 of March 1, 1911 (commonly known as the
18 Weeks Act; 16 U.S.C. 500).

19 “(B) The fourteenth paragraph under the
20 heading ‘FOREST SERVICE’ in the Act of March
21 4, 1913 (16 U.S.C. 501).

22 “(C) Section 33 of the Bankhead-Jones
23 Farm Tenant Act (7 U.S.C. 1012).

24 “(D) The Act of August 8, 1937, and the
25 Act of May 24, 1939 (43 U.S.C. 1181a et seq.).

1 “(E) Section 6 of the Act of June 14,
2 1926 (commonly known as the Recreation and
3 Public Purposes Act; 43 U.S.C. 869–4).

4 “(F) Chapter 69 of title 31, United States
5 Code.

6 “(G) Section 401 of the Act of June 15,
7 1935 (16 U.S.C. 715s).

8 “(H) Section 4 of the Land and Water
9 Conservation Fund Act of 1965 (16 U.S.C.
10 4601–6a).

11 “(I) Any other provision of law relating to
12 revenue allocation.

13 “(7) SECURITY.—The Secretary may require a
14 person that is assessed a fee under this subsection
15 to provide security to ensure that the Secretary re-
16 ceives fees authorized under this subsection from
17 such person.”.

18 **SEC. 154. FOREST SERVICE VISITOR FACILITIES IMPROVE-**
19 **MENT DEMONSTRATION PROGRAM.**

20 The Act of April 24, 1950 (commonly known as the
21 Granger-Thye Act) is amended by inserting after section
22 7 (16 U.S.C. 580d) the following new section:

1 **“SEC. 7A. FOREST SERVICE VISITOR FACILITIES IMPROVE-**
2 **MENT DEMONSTRATION PROGRAM.**

3 “(a) DEFINITION OF CONCESSIONAIRE.—In this sec-
4 tion, the term ‘concessionaire’ means an individual, cor-
5 poration, partnership, public agency, or nonprofit group.

6 “(b) DEMONSTRATION PROGRAM REQUIRED.—The
7 Secretary of Agriculture (in this section referred to as the
8 ‘Secretary’) shall implement a public/private venture dem-
9 onstration program to evaluate the feasibility of utilizing
10 non-Federal funds to construct, rehabilitate, maintain,
11 and operate federally owned visitor facilities (including re-
12 sorts, campgrounds, and marinas) on National Forest
13 System lands and to conduct the requisite environmental
14 analysis associated with those activities. The demonstra-
15 tion program shall include not more than 15 projects.

16 “(c) AUTHORIZED PROJECTS.—In accordance with
17 the applicable land and resource management plans, the
18 Secretary shall authorize concessionaires to construct,
19 maintain, and operate new federally owned visitor facilities
20 and rehabilitate, maintain, and operate existing federally
21 owned visitor facilities on National Forest System lands.
22 Title to the authorized improvements attributable to the
23 concessionaire’s capital investment shall be vested in the
24 United States. The Secretary shall provide for competition
25 in the selection of any concessionaire under this section
26 to ensure the highest quality visitor services consistent

1 with the best financial return to the Government. Stand-
2 ard business practices will be used to determine minimum
3 fees that reflect fair market value.

4 “(d) TERM OF AUTHORIZATION AND DEPRECI-
5 A-TION.—

6 “(1) TERM.—The term of each authorized
7 project under the demonstration program shall be
8 based on the Secretary’s estimate of the time needed
9 to allow the concessionaire to depreciate its capital
10 investment, except that in no event shall the term of
11 authorization exceed 35 years. Any term exceeding
12 20 years shall require Regional Forester approval.

13 “(2) PURCHASE OF VALUE.—Any authorization
14 issued under this section shall provide for the pur-
15 chase by the Secretary or a succeeding conces-
16 sionaire of any value in the authorized improvements
17 attributable to the original concessionaire’s capital
18 investment that is not fully depreciated—

19 “(A) upon termination of the authoriza-
20 tion; or

21 “(B) upon revocation of the authorization
22 for reasons in the public interest.

23 “(3) EXCEPTION.—The Secretary shall not be
24 obligated to purchase any value in an authorized im-

1 provement if the authorization is revoked for any
2 reason other than the public interest.

3 “(4) DETERMINATION OF VALUE.—The value
4 of an authorized improvement shall be the amount
5 reported to the Internal Revenue Service that re-
6 flects the depreciation of the concessionaire’s invest-
7 ment in the authorized improvement. This amount
8 shall reflect all cumulative depreciation taken by the
9 concessionaire during the term of the authorization.

10 “(e) DISPOSAL OF EXISTING FACILITIES.—Notwith-
11 standing any other provision of law, the Secretary is au-
12 thorized to sell at fair market value existing federally
13 owned visitor facilities on National Forest System lands
14 to a concessionaire authorized under this section, if the
15 Secretary determines sale of the facilities is in the best
16 interest of the Federal Government and if the conces-
17 sionaire agrees that any construction, renovation, or im-
18 provement of such facilities will be consistent with applica-
19 ble land and resource management plans and Federal and
20 State laws. The fair market value of the Federal improve-
21 ments shall be determined by an appraisal conducted by
22 an independent third party approved by the agency and
23 paid for by the concessionaire.

24 “(f) CONCESSION FEES AND FACILITY SALES PRO-
25 CEEDS.—

1 “(1) AMOUNT.—The Secretary shall charge and
2 collect concession fees established by bid as a per-
3 centage of the concessionaire’s gross revenue from
4 authorized activities associated with the bid.

5 “(2) COLLECTION AND USE OF FUNDS.—Funds
6 collected in accordance with this subsection shall be
7 deposited as follows—

8 “(A) not less than 60 percent of the
9 amounts collected, as determined by the Sec-
10 retary, into a special account in the Treasury of
11 the United States which shall be available for
12 expenditure by the Secretary on the unit of the
13 National Forest System in which the fees were
14 collected; and

15 “(B) the balance of the amounts collected,
16 not distributed in accordance with subpara-
17 graph (A), into a special account in the Treas-
18 ury of the United States which shall be avail-
19 able for expenditure by the Secretary on an
20 agencywide basis.

21 “(3) AUTHORITY TO USE FUNDS.—Funds de-
22 posited pursuant to paragraph (2) shall be available
23 without further appropriation and until expended for
24 the purpose of increased concession opportunities,
25 enhanced visitor services, including infrastructure at

1 nonfee recreation facilities, facilities maintenance,
2 project and program monitoring, environmental
3 analysis, and environmental restoration.

4 “(g) BONDING.—Five years before the termination of
5 an authorization issued under this section, the Secretary
6 shall require bonding from the concessionaire to ensure
7 that federally owned facilities are in satisfactory condition
8 for future use by the Federal Government or a successor
9 concessionaire.

10 “(h) REPORT TO CONGRESS.—Within four years
11 after the date of the enactment of this section, the Sec-
12 retary shall submit a report to Congress evaluating the
13 demonstration program and providing recommendations
14 for permanent authority to undertake a public/private ven-
15 ture program.

16 “(i) EXPIRATION OF AUTHORITY.—All activities
17 under this section shall expire not later than the end of
18 fiscal year 2031, except that the authority to issue new
19 authorizations under this section shall expire at the end
20 of fiscal year 2001.

21 “(j) RELATION TO OTHER LAWS.—

22 “(1) TREATMENT OF AMOUNTS COLLECTED.—
23 Amounts collected under this section shall not be
24 taken into account for the purposes of the following
25 laws:

1 “(A) The sixth paragraph under the head-
2 ing ‘FOREST SERVICE’ in the Act of May 23,
3 1908 (16 U.S.C. 500) and section 13 of the Act
4 of March 1, 1911 (commonly known as the
5 Weeks Act; 16 U.S.C. 500).

6 “(B) The fourteenth paragraph under the
7 heading ‘FOREST SERVICE’ in the Act of March
8 4, 1913 (16 U.S.C. 501).

9 “(C) Section 33 of the Bankhead-Jones
10 Farm Tenant Act (7 U.S.C. 1012).

11 “(D) The Act of August 8, 1937, and the
12 Act of May 24, 1939 (43 U.S.C. 1181a et seq.).

13 “(E) Section 6 of the Act of June 14,
14 1926 (commonly known as the Recreation and
15 Public Purposes Act; 43 U.S.C. 869–4).

16 “(F) Chapter 69 of title 31, United States
17 Code.

18 “(G) Section 401 of the Act of June 15,
19 1935 (16 U.S.C. 715s).

20 “(H) Section 4 of the Land and Water
21 Conservation Fund Act of 1965 (16 U.S.C.
22 4601–6a).

23 “(I) Any other provision of law relating to
24 revenue allocation.

1 concessions during fiscal year 1999 shall be available
2 for expenditure by the Secretary of Agriculture,
3 without further appropriation and until expended,
4 for the purpose of increased concession opportuni-
5 ties, enhanced visitor services, including infrastruc-
6 ture at nonfee recreation facilities, facilities mainte-
7 nance, project and program monitoring, interpretive
8 programs, environmental analysis, environmental
9 restoration, and permit administration.

10 **Subtitle B—Commerce**

11 **PART I—NATIONAL OCEANIC AND ATMOSPHERIC**

12 **ADMINISTRATION NAVIGATION SERVICES FEES**

13 **SEC. 211. NAVIGATION SERVICES FEES.**

14 (a) IN GENERAL.—Beginning in fiscal year 2000 and
15 each year thereafter, the Secretary of Commerce shall es-
16 tablish and adjust by regulation user fees for any naviga-
17 tion services provided to commercial marine operators.

18 (b) PUBLICATION OF SCHEDULE.—The fees estab-
19 lished under subsection (a) shall be implemented by publi-
20 cation of an initial fee schedule as an interim final rule
21 in the Federal Register not later than 150 days after the
22 date of enactment of this section. No fee shall be collected
23 until 30 days after the date of such publication.

24 (c) SUBJECT TO APPROPRIATIONS ACTS.—Fees au-
25 thorized under this section shall be available for obligation

1 only to the extent and the amount provided in advance
2 in appropriations Acts.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—Not to
4 exceed \$14,000,000 of offsetting collections from such
5 user fees that are collected in a fiscal year are authorized
6 to be appropriated, to remain available until expended, for
7 necessary expenses associated with navigation services
8 provided to commercial marine operators. Any fees col-
9 lected in excess of such amount during any fiscal year are
10 authorized to be appropriated for the same purposes in
11 the next succeeding fiscal year.

12 **PART II—NATIONAL OCEANIC AND ATMOS-**
13 **PHERIC ADMINISTRATION FISHERIES MAN-**
14 **AGEMENT FEES**

15 **SEC. 221. FISHERIES MANAGEMENT FEES.**

16 (a) IN GENERAL.—Beginning in fiscal year 2000 and
17 each fiscal year thereafter, the Secretary of Commerce
18 shall establish and adjust by regulation user fees associ-
19 ated with the United States fishing industry.

20 (b) CONSULTATION; PUBLICATION OF SCHEDULE.—
21 The fees established under subsection (a) shall be estab-
22 lished after consultation with the Congress and represent-
23 atives of the fishing industry. The fees shall be imple-
24 mented by publication of an initial fee schedule as an in-
25 terim final rule in the Federal Register not later than 150

1 days after the date of enactment of this section. No fees
2 shall be collected until 30 days after the date of such pub-
3 lication.

4 (c) SUBJECT TO APPROPRIATIONS ACTS.—Fees au-
5 thorized under this section shall be available for obligation
6 only to the extent and the amount provided in advance
7 in appropriations Acts.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—Not to
9 exceed \$20,000,000 of offsetting collections from such
10 user fees that are collected in a fiscal year are authorized
11 to be appropriated, to remain available until expended, for
12 management and enforcement costs associated with do-
13 mestic fisheries. Any fees collected in excess of such
14 amount during any fiscal year are authorized to be appro-
15 priated for the same purposes in the next succeeding fiscal
16 year.

17 **PART III—ANALOG TELEVISION SERVICE SIGNAL**
18 **LEASE FEE**

19 **SEC. 231. ANALOG TELEVISION SERVICE SIGNAL LEASE**
20 **FEE.**

21 The Communications Act of 1934 is amended by in-
22 serting after section 9 (47 U.S.C. 159) the following new
23 section:

1 **“SEC. 9A. FEES FOR ANALOG TELEVISION LICENSES.**

2 “(a) IN GENERAL.—Beginning in fiscal year 2000
3 and thereafter, the Commission may assess and collect
4 lease fees for each fiscal year for the use of a license for
5 analog television service by commercial television broad-
6 casters based on rates established by the Commission. The
7 fees shall be used for upgrading Federal, State, and local
8 public safety wireless communications equipment and fa-
9 cilities. For fiscal year 2000, the aggregate amount of
10 such fees shall be not less than \$200,000,000.

11 “(b) TIMING.—Payment of all fees for a fiscal year
12 is due to the Commission no later than September 30 of
13 such fiscal year.

14 “(c) RATES.—The Commission shall develop rates
15 that reasonably can be expected to result in collection of
16 the aggregate fee amount provided for fiscal year 2000
17 pursuant to subsection (d) and shall establish and appor-
18 tion the fee for commercial broadcasters based upon the
19 population covered by a broadcaster’s signal, as deter-
20 mined by the Grade B contour as defined in section
21 76.683(a) of the Commission’s regulations (47 CFR
22 73.683(a)). The rates so established and apportioned for
23 fiscal year 2000 shall remain in effect for subsequent fis-
24 cal years until all licenses for analog television service have
25 been returned.

1 “(d) COLLECTION AND DEPOSIT.—Fees authorized
2 by this section shall be available for obligation only to the
3 extent and in the amount provided in advance in appro-
4 priations Acts. Any fees collected shall be deposited as off-
5 setting receipts in a separate account in the Treasury, and
6 are authorized to be appropriated to remain available until
7 expended.

8 “(e) RETURN OF ANALOG TELEVISION LICENSE.—A
9 licensee that returns its license for analog television serv-
10 ice to the Commission pursuant to section 309 before the
11 first day of the fiscal year for which the fee is due shall
12 not be required to pay the fee for such fiscal year. Fees
13 on licenses for analog television service returned or surren-
14 dered after the first day of the fiscal year for which the
15 fee is due shall be prorated.

16 “(f) ADJUSTMENT.—The Commission may waive, re-
17 duce, or defer payment of a fee in any specific instance
18 for good cause shown, where such action would promote
19 the public interest.

20 “(7) PENALTY FOR LATE PAYMENT.—The
21 Commission shall prescribe by regulation an addi-
22 tional charge which shall be assessed as a penalty
23 for late payment of fees. Such penalty shall be 25
24 percent of the amount of the fee which was not paid
25 in a timely manner.”.

1 **Subtitle C—Education and Labor**

2 **PART I—NATIONAL DIRECTORY OF NEW HIRES**

3 **SEC. 311. MATCHING AGAINST NDNH WITH RESPECT TO DE-**
4 **FAULTED LOANS AND OVERPAYMENTS OF**
5 **GRANTS UNDER THE HIGHER EDUCATION**
6 **ACT OF 1965.**

7 (a) AMENDMENT TO HIGHER EDUCATION ACT OF
8 1965.—Part G of title IV of the Higher Education Act
9 of 1965 (20 U.S.C. 1001 et seq.) is amended by inserting
10 after section 488A (20 U.S.C. 1095a) the following new
11 section:

12 **“SEC. 488B. DATA MATCHING WITH RESPECT TO DE-**
13 **FAULTED LOANS AND OVERPAYMENTS OF**
14 **GRANTS UNDER THIS TITLE.**

15 “(a) AUTHORITY TO MATCH DEBTOR INFORMATION
16 WITH NATIONAL DIRECTORY OF NEW HIRES.—The Sec-
17 retary shall furnish to the Secretary of Health and Human
18 Services, on a quarterly basis or at such less frequent in-
19 tervals as may be determined by the Secretary, informa-
20 tion in the custody of the Secretary for comparison with
21 information in the National Directory of New Hires estab-
22 lished under section 453(i) of the Social Security Act, in
23 order to obtain the information in such directory with re-
24 spect to individuals who—

1 “(1) are borrowers of loans made under this
2 title that are in default; or

3 “(2) owe an obligation to refund an overpay-
4 ment of a grant awarded under this title.

5 “(b) REQUIREMENT TO SEEK MINIMUM INFORMA-
6 TION NECESSARY.—The Secretary shall seek information
7 from the National Directory of New Hires pursuant to this
8 section only to the extent essential to improving collection
9 of the debt described in subsection (a).

10 “(c) USE OF INFORMATION OBTAINED IN DATA
11 MATCHES.—The Secretary may use information resulting
12 from a data match pursuant to this section only—

13 “(1) for the purpose of collection of the debt
14 described in subsection (a) owed by an individual
15 whose annualized wage level (determined by taking
16 into consideration information from the National Di-
17 rectory of New Hires) exceeds \$16,000; and

18 “(2) after removal of personal identifiers, to
19 conduct analyses of student loan defaults.

20 “(d) DISCLOSURE OF INFORMATION OBTAINED IN
21 DATA MATCHES.—

22 “(1) DISCLOSURES PERMITTED.—The Sec-
23 retary may disclose information resulting from a
24 data match pursuant to this section only to—

1 “(A) a guaranty agency holding a loan
2 made under part B on which the individual is
3 obligated;

4 “(B) a contractor or agent of the guaranty
5 agency described in subparagraph (A);

6 “(C) a contractor or agent of the Sec-
7 retary; and

8 “(D) the Attorney General.

9 “(2) PURPOSE OF DISCLOSURE.—The Secretary
10 may make a disclosure under paragraph (1) only for
11 the purpose of collection of the debts owed on de-
12 faulted student loans, or overpayments of grants,
13 made under this title.

14 “(3) RESTRICTION OF REDISCLOSURE.—An en-
15 tity to which information is disclosed under para-
16 graph (1) may use or disclose such information only
17 as needed for the purpose of collecting on defaulted
18 student loans, or overpayments of grants, made
19 under this title.

20 “(4) PENALTIES FOR MISUSE.—The use or dis-
21 closure of such information by an officer or em-
22 ployee of the United States, a guaranty agency, or
23 a contractor or agent in violation of this section
24 shall be subject to the civil remedies and criminal

1 penalties set forth in section 552a(i) of title 5,
2 United States Code.

3 “(e) PAYMENT OF COSTS OF DATA MATCHES.—

4 “(1) REIMBURSEMENT OF HHS COSTS.—The
5 Secretary shall reimburse the Secretary of Health
6 and Human Services, in accordance with section
7 453(k)(3) of the Social Security Act, for the addi-
8 tional costs incurred by the Secretary of Health and
9 Human Services in furnishing the information re-
10 quested under this section.

11 “(2) FEES CHARGED TO GUARANTY AGEN-
12 CIES.—The Secretary may impose fees on guaranty
13 agencies for information disclosed in accordance with
14 subsection (d), based on the reasonable costs to the
15 Secretary of obtaining such information through
16 data matches under this section. Amounts derived
17 from such fees shall be available for payment to the
18 Secretary of Health and Human Services pursuant
19 to paragraph (1). Fees authorized under this para-
20 graph shall be available for obligation only to the ex-
21 tent and in the amount provided in advance in ap-
22 propriations Acts. Such fees are authorized to be ap-
23 propriated to remain available until expended.”.

24 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—

1 (1) MATCHING AND DISCLOSURE AUTHORITY.—
2 Section 453(j) of the Social Security Act (42 U.S.C.
3 653(j)) is amended by adding at the end the fol-
4 lowing new paragraph:

5 “(6) INFORMATION COMPARISONS AND DISCLO-
6 SURE FOR ENFORCEMENT OF OBLIGATIONS ON
7 HIGHER EDUCATION ACT LOANS AND GRANTS.—

8 “(A) IN GENERAL.—The Secretary, in co-
9 operation with the Secretary of Education, shall
10 compare information in the National Directory
11 of New Hires with information in the custody
12 of the Secretary of Education, and disclose in-
13 formation in that Directory to the Secretary of
14 Education, in accordance with section 488B of
15 the Higher Education Act of 1965, for the pur-
16 poses specified in such section.

17 “(B) CONDITION ON DISCLOSURE.—The
18 Secretary shall make disclosures in accordance
19 with subparagraph (A) only to the extent that
20 the Secretary determines that such disclosures
21 do not interfere with the effective operation of
22 the program under this part. Support collection
23 under section 466(b) shall be given priority over
24 collection of any defaulted student loan or grant
25 overpayment against the same income.”.

1 (2) PENALTY FOR MISUSE OF INFORMATION.—
 2 Section 402(a) of the Child Support Performance
 3 and Incentive Act of 1998 (112 Stat. 669) is amend-
 4 ed in the matter added by paragraph (2) by insert-
 5 ing “or any other person” after “officer or employee
 6 of the United States”.

7 (c) EFFECTIVE DATE.—The amendments made by
 8 this section shall take effect on October 1, 1999.

9 **PART II—RECALL OF FEDERAL RESERVES HELD**
 10 **BY GUARANTY AGENCIES**

11 **SEC. 321. RECALL OF RESERVES IN FISCAL YEARS 2000**
 12 **THROUGH 2004.**

13 (a) SECRETARY REQUIRED TO RECALL RE-
 14 SERVES.—Section 422 of the Higher Education Act of
 15 1965 (20 U.S.C. 1072) is amended by adding at the end
 16 thereof the following new subsection:

17 “(j) RECALL OF RESERVES IN FISCAL YEARS 2000
 18 THROUGH 2004.—

19 “(1) RECALL REQUIRED.—

20 “(A) AMOUNTS REQUIRED.—Notwith-
 21 standing any other provision of law, the Sec-
 22 retary shall, except as otherwise provided in
 23 this subsection and in addition to the recalls re-
 24 quired under subsections (h) and (i), recall
 25 from the Federal Student Loan Reserve Funds

1 held by guaranty agencies under section 422A
2 not less than—

3 “(i) \$788,000,000 in fiscal year 2000;

4 “(ii) \$234,000,000 in fiscal year
5 2001;

6 “(iii) \$262,000,000 in fiscal year
7 2002;

8 “(iv) \$159,000,000 in fiscal year
9 2003; and

10 “(v) \$65,000,000 in fiscal year 2004.

11 “(B) DEPOSIT.—Funds returned to the
12 Secretary under this subsection shall be depos-
13 ited in the Treasury.

14 “(2) APPORTIONMENTS OF RECALLS.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), for each of the fiscal years
17 2000 through 2004, the Secretary shall require
18 each guaranty agency to return reserve funds
19 under subparagraph (A) based on its propor-
20 tionate share, as determined by the Secretary,
21 of all reserve funds held by guaranty agencies
22 in the Federal Student Loan Reserve Funds as
23 of September 30 of the fiscal year preceding
24 each such fiscal year.

1 “(B) LIMITATIONS ON RECALLS.—(i) If a
2 guaranty agency has not returned to the Sec-
3 retary its share of reserve funds for a fiscal
4 year in which reserves are to be recalled under
5 paragraph (1)(A) by September 1 of that fiscal
6 year and the total amount recalled for that fis-
7 cal year is less than the amount the Secretary
8 is required to recall under that paragraph in
9 that fiscal year, the Secretary shall require the
10 return of the amount of the shortage from
11 other Federal Student Loan Reserve Funds
12 held by any or all guaranty agencies under sec-
13 tion 422A under procedures established by the
14 Secretary.

15 “(ii) The Secretary shall first attempt to
16 obtain the amount of such shortage from each
17 guaranty agency that failed to return the agen-
18 cy’s required share to the Secretary in accord-
19 ance with this subsection.

20 “(3) ADMINISTRATIVE AUTHORITY.—

21 “(A) IN GENERAL.—The Secretary may
22 take such reasonable measures, and require
23 such information, as may be necessary to en-
24 sure that guaranty agencies comply with the re-
25 quirements of this subsection.

1 “(B) WITHHOLDING OF OTHER FUNDS.—

2 If the Secretary determines that a guaranty
3 agency has failed to transfer to the Secretary
4 any portion of the agency’s required share
5 under this subsection, the agency may not re-
6 ceive any other funds under this part until the
7 Secretary determines that the agency has so
8 transferred the agency’s required share.

9 “(C) WAIVER.—The Secretary may waive
10 the requirements of subparagraph (B) if the
11 Secretary determines that there are extenuating
12 circumstances beyond the control of the guar-
13 anty agency that justify such waiver.

14 “(4) DEFINITION.—For purposes of this sub-
15 section, the term ‘reserve funds’ has the meaning
16 given in subsection (h)(8)(B).”.

17 (b) CONFORMING AMENDMENTS.—Section 422A(f)
18 of the Higher Education Act of 1965 (20 U.S.C. 1072a(f))
19 is amended—

20 (1) in the fourth sentence of paragraph (1), by
21 striking “subsections (h) and (i)” and inserting
22 “subsections (h), (i), and (j)”;

23 (2) in the first sentence of paragraph (3)—

24 (A) by striking “the fourth year” and in-
25 serting “the sixth year”; and

1 (B) by striking “not later than 5 years”
2 and inserting “not later than 7 years”;
3 (3) by striking paragraphs (6) and (8); and
4 (4) by redesignating paragraph (7) as para-
5 graph (6).

6 (c) ADDITIONAL SAVINGS.—

7 (1) PAYMENTS FOR DEFAULT CLAIMS.—Section
8 428(c) of the Higher Education Act of 1965 (20
9 U.S.C. 1078(c)) is amended—

10 (A) in the heading thereof, by striking
11 “REIMBURSING LOSSES.—” and inserting
12 “PAYING LENDER DEFAULT CLAIMS.—”;

13 (B) in paragraph (1)(A)—

14 (i) in the first sentence thereof, by
15 striking “reimburse” and inserting “pay”;

16 (ii) by striking “reimbursement” each
17 place it appears and inserting “payment”;
18 and

19 (iii) in the fifth sentence thereof, by
20 striking “within 45 days” through the end
21 of such sentence and inserting “at such
22 time as may be specified by the Sec-
23 retary.”;

24 (C) in paragraph (1)(B)—

25 (i) in clause (i)—

1 (I) by striking “reimbursement
2 payments” and inserting “payments”;
3 and

4 (II) by striking “paid as reim-
5 bursement” and inserting “paid”; and
6 (ii) in clause (ii)—

7 (I) by striking “reimbursement
8 payments” and inserting “payments”;
9 and

10 (II) by striking “paid as reim-
11 bursement” and inserting “paid”;

12 (D) in paragraph (1)(D), by striking “Re-
13 imbursements of losses made by the Secretary”
14 and inserting “Payments made by the Secretary
15 under this subsection”;

16 (E) in paragraph (1)(G), by striking “re-
17 imbursement”;

18 (F) in paragraph (2)(G), by striking “re-
19 imbursement” each place it appears and insert-
20 ing “payment”;

21 (G) in paragraph (9)—

22 (i) in the heading thereof, by striking
23 “RESERVE LEVEL.—” and inserting “AD-
24 MINISTRATIVE AND FINANCIAL CONDI-
25 TION.—”;

- 1 (ii) by striking subparagraph (A);
2 (iii) in subparagraph (C)—
3 (I) by striking clause (i);
4 (II) in clause (ii), by striking
5 “reimbursement payments” and in-
6 serting “default claim payments under
7 paragraph (1)”; and
8 (III) by redesignating clauses (ii)
9 and (iii) as clauses (i) and (ii), respec-
10 tively; and
11 (iv) by redesignating subparagraphs
12 (B) through (K) as subparagraphs (A)
13 through (J), respectively; and
14 (H) by adding at the end thereof the fol-
15 lowing new paragraph:

16 “(10) Notwithstanding any provision of the
17 Fair Debt Collection Practices Act, a nonprofit
18 guaranty agency shall not be subject to the require-
19 ments of that Act to the extent that it is carrying
20 out due diligence activities required by the Sec-
21 retary.”.

22 (2) CONFORMING AMENDMENTS.—

- 23 (A) Section 428C(a)(2) (20 U.S.C. 1078–
24 3(a)(2)) is amended by striking “reimburse-
25 ments” and inserting “payments”.

1 (B) Section 428F(a) (20 U.S.C. 1078–
2 6(a)) is amended—

3 (i) in paragraph (1)(B)(ii)(I), by
4 striking “reimburse” and inserting “pay”;
5 and

6 (ii) in paragraph (2), by striking “re-
7 imbursement” and inserting “payment”.

8 (C) Section 428I(e) (20 U.S.C. 1078–9(e))
9 is amended by striking “reimbursements” and
10 inserting “payments”.

11 (D) Section 432(c)(1)(A)(ii) (20 U.S.C.
12 1082(c)(1)(A)(ii) is amended by striking “de-
13 faults reimbursed” and inserting “default
14 claims paid”.

15 (E) Section 438(b)(2)(B) (20 U.S.C.
16 1087–1(b)(2)(B)) is amended—

17 (i) in clause (i), by striking “reim-
18 bursements” and inserting “claim pay-
19 ments”; and

20 (ii) in clause (iv), by striking “reim-
21 bursements” and inserting “claim pay-
22 ments”.

23 (F) Section 488A(a) (20 U.S.C. 1095a(a))
24 is amended, in the matter preceding paragraph

1 (1) by striking “reimbursement” and inserting
2 “payment”.

3 (c) FLEXIBLE AGREEMENTS.—Section 428A(a)(3) of
4 the Higher Education Act of 1965 (20 U.S.C.
5 1072a(a)(3)) is amended to read as follows:

6 “(3) ELIGIBILITY.—Beginning in fiscal year
7 1999, the Secretary may enter into a voluntary,
8 flexible agreement with any guaranty agency that
9 had one or more agreements with the Secretary
10 under subsections (b) and (c) of section 428 as of
11 the day before the date of enactment of the Higher
12 Education Amendments of 1998.”.

13 **PART III—EMPLOYER TAX CREDIT USER FEES**

14 **SEC. 331. WORK OPPORTUNITY CREDIT AND WELFARE-TO-**
15 **WORK CREDIT USER FEES.**

16 (a) ESTABLISHMENT.—Subject to subsection (e), the
17 Secretary of Labor is authorized to impose a fee on em-
18 ployers submitting applications for certification of individ-
19 uals as members of target groups under section 51(d)(12)
20 of the Internal Revenue Code of 1986 (26 U.S.C.
21 51(d)(12)) and categories of long-term family assistance
22 recipients under section 51A(d)(1) of such Code (26
23 U.S.C. 51A(d)(1)), relating to the Work Opportunity
24 Credit and the Welfare-to-Work Credit, respectively. The
25 fees imposed under this section shall not be paid, directly

1 or indirectly, by the individual who is the subject of the
2 certification.

3 (b) AMOUNT OF FEE.—The amount of the fee im-
4 posed under this section shall be determined by the Sec-
5 retary of Labor based on the Secretary's estimate of the
6 amounts needed to fully fund the costs of administering
7 the requirements relating to the certification of individuals
8 under sections 51 and 51A of the Internal Revenue Code
9 of 1986 (26 U.S.C. 51 and 51A). The Secretary of Labor
10 shall establish a fee for employers with fewer than 100
11 employees at an amount that is less than the fee estab-
12 lished for employers with 100 or more employees.

13 (c) COLLECTION AND DEPOSIT.—The fees imposed
14 under this section shall be collected by the Secretary of
15 Labor through the designated local agency specified in sec-
16 tion 51(d)(11) of the Internal Revenue Code of 1986 (26
17 U.S.C. 51(d)(11)) and deposited as offsetting receipts in
18 the State Unemployment Insurance and Employment
19 Service Operations account of the Treasury of the United
20 States.

21 (d) USE OF FUNDS.—The funds deposited pursuant
22 to subsection (c) shall be available to the Secretary of
23 Labor to pay the costs of administering the requirements
24 relating to the certification of individuals under sections
25 51 and 51A of the Internal Revenue Code of 1986 (26

1 U.S.C. 51 and 51A). The Secretary of Labor shall allocate
 2 the funds among the States based on the relative workload
 3 of the States in processing the certifications.

4 (e) APPROPRIATIONS ACTION REQUIRED.—The fees
 5 authorized under this section shall be available for obliga-
 6 tion only to the extent and in the amount provided in ad-
 7 vance in appropriations acts. The fees are authorized to
 8 be appropriated to remain available until expended.

9 **Subtitle D—Natural Resource,**
 10 **Energy, and Environment**

11 **PART I—NUCLEAR REGULATORY COMMISSION**

12 **USER FEES AND ANNUAL CHARGES**

13 **SEC. 411. NUCLEAR REGULATORY COMMISSION USER FEES**

14 **AND ANNUAL CHARGES.**

15 Section 6101(a)(3) of the Omnibus Budget Reconcili-
 16 ation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by
 17 striking “September 30, 1998” and inserting “September
 18 30, 2004”.

19 **PART II—FEDERAL INSECTICIDE, FUNGICIDE,**

20 **AND RODENTICIDE ACT FEES**

21 **SEC. 421. FEDERAL INSECTICIDE, FUNGICIDE, AND**

22 **RODENTICIDE ACT FEES.**

23 Section 3 of the Federal Insecticide, Fungicide, and
 24 Rodenticide Act (7 U.S.C. 136a) is amended by adding
 25 at the end thereof the following new subsection:

1 “(i) FEES.—

2 “(1) Subject to paragraph (4), the Adminis-
3 trator is authorized to assess fees from applicants
4 for registrations and amendments to registrations
5 under this section and experimental use permits
6 under section 5 effective October 1, 1999.

7 “(2) Such fees shall be reasonably calculated to
8 cover costs associated with the review of such appli-
9 cations, and shall be paid at the time of application,
10 unless otherwise specified by the Administrator. If
11 any fee is not paid by the time prescribed, the Ad-
12 ministrator may, by order and without a hearing,
13 deny the application. The Administrator may reduce
14 or waive any fee that would otherwise be assessed—

15 “(A) in connection with an application for
16 an active ingredient that is contained only in
17 pesticides for which registration is sought solely
18 for agricultural or nonagricultural minor uses;
19 or

20 “(B) in such other instances as the Admin-
21 istrator determines to be in the public interest.

22 “(3) Fees collected under this subsection shall
23 be deposited in a special fund for environmental
24 services in the United States Treasury.

1 “(4) Fees authorized under this subsection shall
2 be available for obligation only to the extent and in
3 the amount provided in advance in appropriations
4 Acts. Such fees are authorized to be appropriated to
5 remain available until expended, to carry out the
6 Agency’s activities under sections 3 and 5 for which
7 the fees were collected.”.

8 **SEC. 422. CONFORMING AMENDMENT.**

9 Section 4(i) of the Federal Insecticide, Fungicide,
10 and Rodenticide Act (7 U.S.C. 136b(i)) is amended—

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

12 (2) by renumbering paragraph (7) as paragraph
13 (6).

14 **PART III—TOXIC SUBSTANCES CONTROL ACT**

15 **FEES**

16 **SEC. 431. TOXIC SUBSTANCES CONTROL ACT FEES.**

17 Section 26(b) of the Toxic Substances Control Act
18 (15 U.S.C. 2625(b)) is amended as follows:

19 (1) Paragraph (1) is amended to read as fol-
20 lows:

21 “(b) FEES.—The Administrator is authorized, by
22 rule, to collect a reasonable fee from any person required
23 to submit data under section 4 or 5 to defray the cost
24 of administering this Act. In setting a fee under this para-
25 graph the Administrator shall take into account the ability

1 to pay of the person required to submit the data and the
2 cost to the Administrator of reviewing such data. Such
3 rules may provide for sharing such a fee in any case in
4 which the expenses of testing are shared under section 4
5 or 5.”.

6 (2) By adding at the end thereof the following
7 2 paragraphs:

8 “(3) Fees collected under this subsection shall
9 be deposited in a special fund for environmental
10 services in the United States Treasury.

11 “(4) Fees authorized under this subsection shall
12 be available for obligation only to the extent and in
13 the amount provided in advance in appropriations
14 Acts. Such fees are authorized to be appropriated to
15 remain available until expended, to carry out the
16 Agency’s activities under sections 4 and 5 for which
17 the fees were collected.”.

18 **Subtitle E—Revenue**

19 **PART I—REINSTATE SUPERFUND TAXES**

20 **SEC. 511. EXTENSION OF HAZARDOUS SUBSTANCE SUPER-** 21 **FUND TAXES.**

22 (a) EXTENSION OF TAXES.—

23 (1) ENVIRONMENTAL TAX.—Section 59A(e) of
24 the Internal Revenue Code of 1986 is amended to
25 read as follows:

1 “(e) APPLICATION OF TAX.—The tax imposed by this
2 section shall apply to—

3 “(1) taxable years beginning after December
4 31, 1986, and before January 1, 1996, and

5 “(2) taxable years beginning after December
6 31, 1998, and before January 1, 2010.”

7 (2) EXCISE TAXES.—Section 4611(e) of such
8 Code is amended to read as follows:

9 “(e) APPLICATION OF HAZARDOUS SUBSTANCE
10 SUPERFUND FINANCING RATE.—The Hazardous Sub-
11 stance Superfund financing rate under this section shall
12 apply—

13 “(1) after December 31, 1986, and before Jan-
14 uary 1, 1996, and

15 “(2) after the date of the enactment of this
16 paragraph and before October 1, 2009.”

17 (b) EFFECTIVE DATES.—

18 (1) INCOME TAX.—The amendment made by
19 subsection (a)(1) shall apply to taxable years begin-
20 ning after December 31, 1998.

21 (2) EXCISE TAX.—The amendment made by
22 subsection (a)(2) shall take effect on the date of the
23 enactment of this Act.

1 **PART II—TOBACCO EXCISE TAXES**
2 **SEC. 521. INCREASE IN EXCISE TAXES ON TOBACCO PROD-**
3 **UCTS.**

4 (a) IN GENERAL.—Section 5701 of the Internal Rev-
5 enue Code of 1986 (relating to rate of tax on tobacco
6 products), as amended by the Balanced Budget Act of
7 1997, is amended to read as follows:

8 **“SEC. 5701. RATE OF TAX.**

9 “(a) CIGARS.—On cigars, manufactured in or im-
10 ported into the United States, there shall be imposed the
11 following taxes:

12 “(1) SMALL CIGARS.—On cigars, weighing not
13 more than 3 pounds per thousand, \$4.406 per thou-
14 sand.

15 “(2) LARGE CIGARS.—On cigars weighing more
16 than 3 pounds per thousand, a tax equal to 49.99
17 percent of the price for which sold but not more
18 than \$98.75 per thousand.

19 Cigars not exempt from tax under this chapter which are
20 removed but not intended for sale shall be taxed at the
21 same rate as similar cigars removed for sale.

22 “(b) CIGARETTES.—On cigarettes, manufactured in
23 or imported into the United States, there shall be imposed
24 the following taxes:

1 “(1) SMALL CIGARETTES.—On cigarettes,
2 weighing not more than 3 pounds per thousand,
3 \$47.00 per thousand.

4 “(2) LARGE CIGARETTES.—On cigarettes,
5 weighing more than 3 pounds per thousand, \$98.70
6 per thousand.

7 Cigarettes described in paragraph (2), if more than 6½
8 inches in length, shall be taxable at the rate under para-
9 graph (1) by treating each 2¾ inches (or fraction thereof)
10 of the length of each as 1 cigarette.

11 “(c) CIGARETTE PAPERS.—On cigarette papers,
12 manufactured in or imported into the United States, there
13 shall be imposed a tax of 2.9 cents for each 50 papers
14 or fractional part thereof; except that cigarette papers
15 which measure more than 6½ inches in length shall be
16 taxable at the rate prescribed by treating each 2¾ inches
17 (or fraction thereof) of the length of each as 1 cigarette
18 paper.

19 “(d) CIGARETTE TUBES.—On cigarette tubes, manu-
20 factured in or imported into the United States, there shall
21 be imposed a tax of 5.9 cents for each 50 tubes or frac-
22 tional part thereof; except that cigarette tubes which
23 measure more than 6½ inches in length shall be taxable
24 at the rate prescribed by treating each 2¾ inches (or frac-
25 tion thereof) of the length of each as 1 cigarette tube.

1 “(e) SMOKELESS TOBACCO.—

2 “(1) SNUFF.—On snuff, manufactured in or
3 imported into the United States, there shall be im-
4 posed a tax of \$1.41 per pound (and a proportionate
5 tax at the like rate on all fractional parts of a
6 pound).

7 “(2) CHEWING TOBACCO.—On chewing tobacco,
8 manufactured in or imported into the United States,
9 there shall be imposed a tax of 47 cents (and a pro-
10 portionate tax at the like rate on all fractional parts
11 of a pound).

12 “(f) PIPE TOBACCO.—On pipe tobacco, manufac-
13 tured in or imported into the United States, there shall
14 be imposed a tax of \$2.64 per pound (and a proportionate
15 tax at the like rate on all fractional parts of a pound).

16 “(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own
17 tobacco, manufactured in or imported into the United
18 States, there shall be imposed a tax \$2.64 per pound (and
19 a proportionate tax at the like rate on all fractional parts
20 of a pound).

21 “(h) IMPORTED TOBACCO PRODUCTS AND CIGA-
22 RETTE PAPERS AND TUBES.—The taxes imposed by this
23 section on tobacco products and cigarette papers and
24 tubes imported into the United States shall be in addition

1 to any import duties imposed on such articles, unless such
2 import duties are imposed in lieu of internal revenue tax.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on October 1, 1999.

5 (c) FLOOR STOCKS TAXES.—

6 (1) IMPOSITION OF TAX.—On tobacco products
7 and cigarette papers and tubes manufactured in or
8 imported into the United States which are removed
9 before October 1, 1999, and held on such date for
10 sale by any person, there is hereby imposed a tax in
11 an amount equal to the excess of—

12 (A) the tax which would be imposed under
13 section 5701 of the Internal Revenue Code of
14 1986 on the article if the article had been re-
15 moved on such date, over

16 (B) the prior tax (if any) imposed under
17 section 5701 of such Code on such article.

18 (2) AUTHORITY TO EXEMPT CIGARETTES HELD
19 IN VENDING MACHINES.—To the extent provided in
20 regulations prescribed by the Secretary, no tax shall
21 be imposed by paragraph (1) on cigarettes held for
22 retail sale on October, 1, 1999, by any person in any
23 vending machine. If the Secretary provides such a
24 benefit with respect to any person, the Secretary

1 may reduce the \$500 amount in paragraph (3) with
2 respect to such person.

3 (3) CREDIT AGAINST TAX.—Each person shall
4 be allowed as a credit against the taxes imposed by
5 paragraph (1) an amount equal to \$500. Such credit
6 shall not exceed the amount of taxes imposed by
7 paragraph (1) for which such person is liable.

8 (4) LIABILITY FOR TAX AND METHOD OF PAY-
9 MENT.—

10 (A) LIABILITY FOR TAX.—A person hold-
11 ing cigarettes on October, 1, 1999, to which
12 any tax imposed by paragraph (1) applies shall
13 be liable for such tax.

14 (B) METHOD OF PAYMENT.—The tax im-
15 posed by paragraph (1) shall be paid in such
16 manner as the Secretary shall prescribe by reg-
17 ulations.

18 (C) TIME FOR PAYMENT.—The tax im-
19 posed by paragraph (1) shall be paid on or be-
20 fore April 1, 2000.

21 (5) ARTICLES IN FOREIGN TRADE ZONES.—
22 Notwithstanding the Act of June 18, 1934 (48 Stat.
23 998, 19 U.S.C. 81a) and any other provision of law,
24 any article which is located in a foreign trade zone

1 on October 1, 1999, shall be subject to the tax im-
2 posed by paragraph (1) if—

3 (A) internal revenue taxes have been deter-
4 mined, or customs duties liquidated, with re-
5 spect to such article before such date pursuant
6 to a request made under the 1st proviso of sec-
7 tion 3(a) of such Act, or

8 (B) such article is held on such date under
9 the supervision of a customs officer pursuant to
10 the 2d proviso of such section 3(a).

11 (6) DEFINITIONS.—For purposes of this
12 subsection—

13 (A) IN GENERAL.—Terms used in this sub-
14 section which are also used in section 5702 of
15 the Internal Revenue Code of 1986 shall have
16 the respective meanings such terms have in
17 such section, as amended by this Act.

18 (B) SECRETARY.—The term “Secretary”
19 means the Secretary of the Treasury or the
20 Secretary’s delegate.

21 (7) CONTROLLED GROUPS.—Rules similar to
22 the rules of section 5061(e)(3) of such Code shall
23 apply for purposes of this subsection.

24 (8) OTHER LAWS APPLICABLE.—All provisions
25 of law, including penalties, applicable with respect to

1 the taxes imposed by section 5701 of such Code
2 shall, insofar as applicable and not inconsistent with
3 the provisions of this subsection, apply to the floor
4 stocks taxes imposed by paragraph (1), to the same
5 extent as if such taxes were imposed by such section
6 5701. The Secretary may treat any person who bore
7 the ultimate burden of the tax imposed by para-
8 graph (1) as the person to whom a credit or refund
9 under such provisions may be allowed or made.

10 **SEC. 522. MODIFICATION OF DEPOSIT REQUIREMENT.**

11 (a) IN GENERAL.—Paragraph (1) of section 6302(f)
12 of the Internal Revenue Code of 1986 is amended by add-
13 ing at the end the following new sentence: “This para-
14 graph shall not apply to 1999 with respect to taxes im-
15 posed by chapters 51 and 52.”

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall take effect on the date of the enactment
18 of this Act.

19 **PART III—CUSTOMS ACCESS FEE**

20 **SEC. 531. CUSTOMS ACCESS FEE.**

21 (a) CUSTOMS ACCESS FEE.—Section 13031 of the
22 Consolidated Omnibus Budget Reconciliation Act of 1985
23 (19 U.S.C. 58c) is amended as follows:

24 (1) Subsection (a) is amended by adding at the
25 end the following new paragraph:

1 “(11)(A) For the use of any automated system
2 of the Customs Service for processing commercial
3 operations, the Secretary of the Treasury shall as-
4 sess a fee based on the volume of usage of the sys-
5 tem.

6 “(B) The Secretary shall publish in the Federal
7 Register a notice establishing the fee under this
8 paragraph to ensure collection in each fiscal year of
9 the amount appropriated for that fiscal year for the
10 cost of modernizing automated commercial oper-
11 ations of the Customs Service and of deploying the
12 International Trade Data System.”.

13 (2) Subsection (b) is amended by adding at the
14 end the following new paragraph:

15 “(12) No fee may be charged to a Federal agency
16 under subsection (a)(11).”.

17 (3) Subsection (d) is amended by adding at the
18 end the following new paragraph:

19 “(5) The Customs Service shall issue bills on a
20 monthly basis for the fee charged under subsection
21 (a)(11).”.

22 (4) Subsection (f)(1) is amended by adding at
23 the end the following:

24 “The fees authorized under subsection (a)(11) shall be
25 available for obligation only to the extent and in the

1 amount provided in advance in appropriations Acts for the
2 costs of modernizing the automated commercial operations
3 of the Customs Service and of deploying the International
4 Trade Data System. The fees authorized under subsection
5 (a)(11) shall be adjusted accordingly and are authorized
6 to remain available until expended.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section take effect on October 1, 1999.

9 **PART IV—CUSTOMS AIR AND SEA PASSENGER**
10 **PROCESSING FEE AMENDMENTS**

11 **SEC. 541. CUSTOMS PASSENGER AND CARGO FEE.**

12 Section 13031 of the Consolidated Omnibus Budget
13 Reconciliation Act of 1985 (19 U.S.C.58c) is amended as
14 follows:

15 (1) Subsection (a)(5) is amended to read as fol-
16 lows:

17 “(5)(A) For the arrival of each passenger
18 aboard a commercial vessel from a place referred to
19 in subsection (b)(1)(A)(i), \$1.75.

20 “(B) Subject to subsection (f)(5), for the ar-
21 rival of each passenger aboard a commercial vessel
22 or commercial aircraft from a place outside the
23 United States, \$6.40, except that—

24 “(i) the exemptions under clauses (i) and
25 (iv) of subsection (b)(1)(A) shall not apply; and

1 “(ii) the exemption under clause (iii) of
2 subsection (b)(1)(A) shall not apply, except to
3 the arrival of a ferry which began operating on
4 or before January 1, 1999.”.

5 (2) Subsection (b)(1) is amended—

6 (A) in subparagraph (A), in the matter
7 preceding clause (i), by striking “(a)(5)(B)”
8 and inserting “(a)(5)”; and

9 (B) by striking subparagraph (C).

10 (3) Subsection (f) is amended—

11 (A) in paragraph (3)—

12 (i) by redesignating subparagraphs
13 (B), (C), and (D) as subparagraphs (C),
14 (D), and (E), respectively;

15 (ii) by inserting after subparagraph

16 (A) the following:

17 “(B) Notwithstanding subparagraph (A) and subject
18 to paragraph (5), the Secretary of the Treasury is author-
19 ized to reimburse directly from the fees collected under
20 paragraph (5)(B) of subsection (a), the Customs ‘Salaries
21 and Expenses’ appropriation for the costs incurred by the
22 Secretary for inspectional services, to the following extent:

23 “(i) Each fee (\$6.40) collected pursuant to
24 paragraph (5)(B) of subsection (a) for services in
25 connection with the arrival of each passenger ex-

1 empt, before the enactment of the Discretionary
2 Spending Offsets Act for Fiscal Year 2000, from
3 paying a fee under clause (i), (iii), or (iv) of sub-
4 section (b)(1)(A), except for the arrival of any pas-
5 senger on a ferry which began operating on or be-
6 fore January 1, 1999.

7 “(ii) \$1.40 of each fee collected pursuant to
8 paragraph (5)(B) of subsection (a) for services in
9 connection with the arrival of all other passengers.”;
10 and

11 (iii) by striking the last sentence of
12 subparagraph (A); and

13 (B) by amending paragraph (5) to read as
14 follows:

15 “(5) Of the fees charged under paragraph (5)(B) of
16 subsection (a), the amount specified under paragraph
17 (3)(B) of this subsection for reimbursement shall be avail-
18 able for obligation only to the extent and in the amount
19 provided in advance in appropriations Acts. Such fees
20 shall apply to documents or tickets issued on or after the
21 30th day following the enactment of the applicable appro-
22 priations Act. Such fees are authorized to remain available
23 until expended.”.

1 **PART V—HARBOR SERVICES USER FEE**

2 **SEC. 551. HARBOR SERVICES FEE.**

3 (a) **IN GENERAL.**—The Secretary of the Army, acting
4 through the Chief of Engineers, shall impose a fee on the
5 owners or operators of commercial vessels for services pro-
6 vided for the use of ports.

7 (b) **AMOUNT OF FEE.**—

8 (1) **INDIVIDUAL FEES.**—The amount of the fee
9 imposed under subsection (a) shall be based on ves-
10 sel category and vessel capacity unit in accordance
11 with the following:

12 (A) **Bulkers,** \$0.12 per vessel capacity
13 unit.

14 (B) **Tankers,** \$0.28 per vessel capacity
15 unit.

16 (C) **General cargo vessels,** \$2.74 per vessel
17 capacity unit.

18 (D) **Cruise vessels,** \$0.12 per vessel capa-
19 city unit.

20 (2) **TOTAL FEES.**—The aggregate amount of
21 fees imposed under subsection (a) in any fiscal year
22 shall be sufficient to pay the projected total expendi-
23 tures of the Department of the Army, subject to ap-
24 propriations, for harbor development, operation, and
25 maintenance for a fiscal year. If amounts appro-
26 priated in any fiscal year are less than the amount

1 collected in fees for the prior fiscal year, then the
2 rate of the fee for each vessel category shall be re-
3 duced in the year of the appropriation so as to result
4 in collections not exceeding the total amount appro-
5 priated from the Harbor Services Fund for that fis-
6 cal year.

7 (c) IMPOSITION OF FEES.—Fees imposed under sub-
8 section (a) shall be imposed on a voyage basis for commer-
9 cial vessels and shall be payable by the operator of a com-
10 mercial vessel upon the first port use by a vessel entering
11 a United States port from a foreign port or at the origi-
12 nating port for domestic voyages.

13 (d) AVAILABILITY OF FEES.—Fees imposed under
14 subsection (a) in any fiscal year shall be available for obli-
15 gation in the following fiscal year only to the extent and
16 in the amount provided in advance in the appropriations
17 Act for such fiscal year. Such fees are authorized to be
18 appropriated to remain available until expended.

19 (e) EXEMPTIONS.—No fee shall be imposed under
20 subsection (a) for port use—

21 (1) by the United States or any agency or in-
22 strumentality of the United States;

23 (2) in connection with intraport movements;

1 (3) in connection with transporting commercial
2 cargo from the United States mainland to Alaska,
3 Hawaii, or any possession of the United States;

4 (4) in connection with transporting commercial
5 cargo from Alaska, Hawaii, or any possession of the
6 United States to the United States mainland, Alas-
7 ka, Hawaii, or such possession for ultimate use or
8 consumption in the United States mainland, Alaska,
9 Hawaii, or such a possession;

10 (5) in connection with transporting commercial
11 cargo within Alaska, Hawaii, or a possession of the
12 United States; or

13 (6) in connection with transporting passengers
14 on vessels, documented under the laws of the United
15 States, operating solely within the States of Alaska
16 or Hawaii and adjacent international waters.

17 (f) REGULATIONS OF THE SECRETARY OF THE
18 TREASURY.—The Secretary of the Treasury shall be re-
19 sponsible for prescribing regulations—

20 (1) providing for the manner and method of
21 payment and collection of the fees imposed under
22 this section;

23 (2) providing for the posting of bonds to secure
24 payment of such fees; and

1 (3) exempting any transaction or class of trans-
2 actions from such fees where the collection of such
3 fees is not administratively practical.

4 (g) REGULATIONS OF THE SECRETARY OF THE
5 ARMY.—The Secretary of the Army shall be responsible
6 for prescribing regulations—

7 (1) providing for the remittance or mitigation
8 of penalties and the settlement or compromise of
9 claims with respect to fees imposed under this sec-
10 tion;

11 (2) providing for a period review of amounts
12 collected under this section to ensure that the fees
13 charged fairly approximate the cost of services pro-
14 vided to commercial vessels for port use;

15 (3) providing for the prospective adjustment of
16 the rate of the fees imposed under this section for
17 any one or more of the bulker, tanker, or cruise ves-
18 sel categories by up to \$0.05, or, in the case of the
19 general cargo vessel category, by up to \$0.25, as
20 necessary to fairly approximate the cost of services
21 provided to commercial vessels in each vessel cat-
22 egory; and

23 (4) such other regulations as may be necessary
24 to carry out the purposes of this part.

1 **SEC. 552. HARBOR SERVICES FUND.**

2 (a) ESTABLISHMENT.—There is hereby established in
3 the Treasury of the United States a Harbor Services Fund
4 (hereinafter in this section referred to as “the Fund”) into
5 which shall be deposited as offsetting receipts all fees col-
6 lected under section 551 and to which shall be transferred
7 balances in the Harbor Maintenance Trust Fund estab-
8 lished under section 9505 of the Internal Revenue Code
9 of 1986 (26 U.S.C. 9505).

10 (b) PURPOSES.—

11 (1) IN GENERAL.— Subject to subsection (c),
12 amounts in the Fund may be made available for
13 each fiscal year to pay—

14 (A) 100 percent of the eligible harbor de-
15 velopment costs;

16 (B) 100 percent of the eligible operations
17 and maintenance costs assigned to commercial
18 navigation of all ports within the United States;
19 and

20 (C) 100 percent of the eligible costs of
21 maintaining the Federal dredging capability for
22 the Nation.

23 (2) ADDITIONAL PURPOSES.—In addition to the
24 purposes set forth in paragraph (1) of this sub-
25 section, an amount of up to \$100,000,000 per fiscal
26 year is authorized to be appropriated from the Fund

1 for dredging of berthing areas and construction and
2 maintenance of bulkheads associated with a federally
3 authorized project and for all or a portion of the
4 non-Federal share of project costs of an eligible non-
5 Federal interest participating in the construction,
6 operating, or maintenance of a federally authorized
7 project.

8 (c) EXPENDITURES FROM HARBOR SERVICES
9 FUND.—

10 (1) IN GENERAL.— Except as provided in para-
11 graph (2), amounts in the Fund shall be available,
12 as provided in advance in appropriation Acts, to
13 carry out subsection (b) and for the payment of ex-
14 penses incurred in administering the fee imposed by
15 section 551. Such amounts are authorized to be ap-
16 propriated to remain available until expended.

17 (2) ST. LAWRENCE SEAWAY DEVELOPMENT
18 CORPORATION.—From the balances transferred to
19 the Harbor Services Fund pursuant to subsection
20 (a), such sums as may be necessary are hereby re-
21 served to implement legislation to be enacted to es-
22 tablish the Saint Lawrence Seaway Development
23 Corporation as a Performance Based Organization.

1 **SEC. 553. CONFORMING AMENDMENTS.**

2 (a) WATER RESOURCES DEVELOPMENT ACT OF
3 1986.—Upon enactment of an appropriation Act for fiscal
4 year 2000 authorizing the collection of fees pursuant to
5 section 551(d), section 210 of the Water Resources Devel-
6 opment Act of 1986 (33 U.S.C. 2238) shall no longer have
7 effect.

8 (b) INTERNAL REVENUE CODE OF 1986.—Upon en-
9 actment of an appropriation Act for fiscal year 2000 au-
10 thorizing the collection of fees pursuant to section 551(d),
11 sections 4461 and 4462 of the Internal Revenue Code of
12 1986 (26 U.S.C. 4461, 4462) shall no longer have effect.

13 **SEC. 554. DEFINITIONS.**

14 In this part:

15 (1) The term “bulker” means a waterborne ves-
16 sel designed to transport dry bulk cargo, including
17 self-propelled vessels and nonself-propelled vessels.

18 (2) The term “commercial cargo” means any
19 cargo transported on a commercial vessel, except
20 that the term does not include bunker fuel, ship’s
21 stores, sea stores, or equipment necessary to the op-
22 eration of a vessel, or fish or other aquatic animal
23 life caught and not previously landed on shore, and
24 for purposes of paragraphs (3), (4), and (5) of sec-
25 tion 551(d), such term shall not include crude oil
26 with respect to Alaska.

1 (3) The term “commercial vessel” means any
2 vessel in excess of 3,000 gross registered tons used
3 in transporting cargo or passengers by water for
4 compensation or hire, or in transporting cargo by
5 water in the business of the owner, lessee, or oper-
6 ator of the vessel, except that such term shall not
7 include any ferry engaged primarily in the ferrying
8 of passengers (including their vehicles) between
9 points within the United States, or between the
10 United States and contiguous countries.

11 (4) The term “eligible harbor development
12 costs” means the Federal share of the costs associ-
13 ated with construction of the general navigation fea-
14 tures at a harbor or inland harbor within the United
15 States.

16 (5) The term “eligible non-Federal interest”
17 means a non-Federal interest for a federally author-
18 ized navigation project at a port where the average
19 amount of the harbor service fee collected over 3
20 consecutive fiscal years exceeds the average Federal
21 expenditures from the Harbor Services Fund at that
22 port during the same consecutive fiscal years by
23 \$10,000,000.

24 (6) The term “ferry” means any vessel which
25 arrives in United States on a regular schedule dur-

1 ing its operating season at intervals of at least once
2 each business day.

3 (7) The term “general cargo vessel” means a
4 waterborne vessel designed to transport general
5 cargo.

6 (12) The term “cruise vessel” means a water-
7 borne vessel designed to transport fare paying,
8 berthed passengers.

9 (8) The term “port” means any channel or har-
10 bor (or component thereof) in the United States
11 which is not an inland waterway and which is open
12 to public navigation, except that such term shall not
13 include any channel or harbor with respect to which
14 no Federal funds have been used since 1989 for con-
15 struction, operation, or maintenance, or which was
16 deauthorized by Federal law before 1997 or to any
17 channel or harbor where commercial vessels cannot
18 load or unload cargo or passengers.

19 (9) The term “port use” means the use of a
20 channel by a commercial vessel for entering and
21 exiting a port for commercial purposes.

22 (10) The term “tanker” means a waterborne
23 vessel designed to transport liquid bulk cargo, in-
24 cluding self-propelled vessels and nonself-propelled
25 vessels.

1 (11) The term “United States mainland”
2 means the contiguous 48 States.

3 (12) The term “vessel capacity unit” means the
4 unit measure of vessel capacity represented by net
5 tonnage, or, in the case of containerships or cruise
6 vessels, gross tonnage.

7 **SEC. 555. EFFECTIVE DATE.**

8 The fees imposed under section 551(a) shall take ef-
9 fect on October 1, 1999.

10 **Subtitle F—Human Services**

11 **PART I—SOCIAL SECURITY ADMINISTRATION**

12 **CLAIMANT REPRESENTATIVE FEES**

13 **SEC. 611. ASSESSMENT ON ATTORNEYS WHO RECEIVE**
14 **THEIR FEES VIA THE SOCIAL SECURITY AD-**
15 **MINISTRATION.**

16 (a) IN GENERAL.—Section 206 of the Social Security
17 Act (42 U.S.C. 406) is amended by adding at the end the
18 following new subsection:

19 “(d) ASSESSMENT ON ATTORNEYS.—

20 “(1) IN GENERAL.—Whenever a fee for services
21 is required to be certified for payment to an attorney
22 from a claimant’s past-due benefits pursuant to sub-
23 section (a)(4)(A) or (b)(1)(A), the Commissioner
24 shall impose on the attorney an assessment cal-
25 culated in accordance with paragraph (2).

1 “(2) AMOUNT.—

2 “(A) The amount of an assessment under
3 paragraph (1) shall be equal to the product ob-
4 tained by multiplying the amount of the rep-
5 resentative’s fee that would be required to be so
6 certified by subsection (a)(4)(A) or (b)(1)(A)
7 before the application of this subsection, by the
8 percentage specified in subparagraph (B).

9 “(B) The percentage specified in this sub-
10 paragraph is—

11 “(i) for calendar years before 2001,
12 6.3 percent, and

13 “(ii) for calendar years after 2000,
14 6.3 percent or such different percentage
15 rate as the Commissioner determines is
16 necessary in order to achieve full recovery
17 of the costs of certifying fees to attorneys
18 from the past-due benefits of claimants.

19 “(3) COLLECTION.—The Commissioner is au-
20 thorized to collect the assessment imposed on an at-
21 torney under paragraph (1) by offset from the
22 amount of the fee otherwise required by subsection
23 (a)(4)(A) or (b)(1)(A) to be certified for payment to
24 the attorney from a claimant’s past-due benefits.

1 “(4) PROHIBITION ON CLAIMANT REIMBURSE-
2 MENT.—An attorney subject to an assessment under
3 paragraph (1) may not, directly or indirectly, re-
4 quest or otherwise obtain reimbursement for such
5 assessment from the claimant whose claim gave rise
6 to the assessment.

7 “(5) DISPOSITION OF ASSESSMENTS.—Assess-
8 ments on attorneys collected under this subsection
9 shall be credited to the Federal Old-Age and Sur-
10 vivors Insurance Trust Fund and Federal Disability
11 Insurance Trust Fund, as appropriate.

12 “(6) AUTHORIZATION OF APPROPRIATIONS.—
13 The assessments authorized under this section shall
14 be available for obligation only to the extent and in
15 the amount provided in advance by appropriation
16 Acts. These amounts are authorized to be appro-
17 priated to remain available until expended, for ad-
18 ministrative expenses in carrying out this title and
19 related laws.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 206(a)(4)(A) of such Act is amend-
22 ed by inserting “and subsection (d)” after “subpara-
23 graph (B)”.

1 (2) Section 206(b)(1)(A) of such Act is amend-
2 ed by inserting “, but subject to the provisions of
3 subsection (d)” after “section 205(i)”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply in the case of any attorney with
6 respect to whom a fee for services is required to be cer-
7 tified for payment from a claimant’s past-due benefits
8 pursuant to subsection (a)(4)(A) or (b)(1)(A) of section
9 206 of the Social Security Act after the later of—

10 (1) December 31, 1999, or

11 (2) the last day of the first month beginning
12 after the month in which this Act is enacted.

13 **PART II—TEMPORARY ASSISTANCE FOR NEEDY**
14 **FAMILIES AMENDMENTS**

15 **SEC. 621. FY 2000 STATE TANF SUPPLEMENTAL GRANT LIM-**
16 **ITED TO AMOUNT OF GRANT FOR FY 1999.**

17 (a) IN GENERAL.—Section 403(a)(3) of the Social
18 Security Act (42 U.S.C. 603(a)(3)) is amended—

19 (1) in subparagraph (A)—

20 (A) in clause (i), by striking “and” at the
21 end;

22 (B) in clause (ii)—

23 (i) by striking “each of fiscal years
24 1999, 2000, 2001” and inserting “fiscal
25 year 1999”; and

1 (ii) by striking the period and insert-
2 ing a semicolon; and

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

4 “(iii) for fiscal year 2000, a grant in
5 an amount equal to the amount of the
6 grant to the State under clause (ii) for fis-
7 cal year 1999; and

8 “(iv) for fiscal year 2001, a grant in
9 the amount that would be determined pur-
10 suant to clause (ii) if the grant for fiscal
11 year 2000 had been determined pursuant
12 to former clause (ii) (as in effect during
13 fiscal year 1999).”; and

14 (2) in subparagraph (B), by striking “subpara-
15 graph (A)(ii)” and inserting “clause (ii), (iii), or (iv)
16 of subparagraph (A)”.

17 **PART III—TEMPORARY ASSISTANCE FOR NEEDY**
18 **FAMILIES CONTINGENCY FUND**

19 **SEC. 631. DEPOSITS INTO FUND.**

20 Section 403(b)(2) of the Social Security Act (42
21 U.S.C. 603(b)(2)) is amended by striking “in a total
22 amount not to exceed \$2,000,000,000”.

1 **SEC. 632. STATE ELIGIBILITY FOR GRANTS; ELIMINATION**
2 **OF EXTRA MONTH OF ELIGIBILITY.**

3 Section 403(b)(94) of the Social Security Act (42
4 U.S.C. 603(b)(4) is amended by striking “in the 2-month
5 period that begins with any month for which” and insert-
6 ing “in which”.

7 **SEC. 633. ANNUAL RECONCILIATION.**

8 (a) REVISION OF REMITTANCE ADJUSTMENT FOR-
9 MULA FACTOR BASED ON NUMBER OF MONTHS STATE
10 WAS A NEEDY STATE.—Section 403(b)(6)(A)(ii)(III) of
11 the Social Security Act (42 U.S.C. 603(b)(6)(A)(ii)(III))
12 is amended by striking “ $\frac{1}{12}$ times the number of months”
13 and inserting “if the State was a needy State for less than
14 6 months in the fiscal year, $\frac{1}{6}$ times the number of
15 months”.

16 (b) REPEAL OF ADJUSTMENT OF STATE REMIT-
17 TANCES FOR FISCAL YEARS 2000 AND 2001 ENACTED IN
18 ADOPTION AND SAFE FAMILIES ACT OF 1997.—Section
19 403(b)(6)(C)(ii) of such Act (42 U.S.C. 603(b)(6)(C)(ii))
20 is amended—

21 (1) in subclause (I), by adding “and” at the
22 end;

23 (2) in subclause (II), by striking the semicolon
24 and inserting a period; and

25 (3) by striking subclauses (III) and (IV).

1 (c) STATE WITH SUBSTANTIAL UNOBLIGATED
2 GRANTS REQUIRED TO RETURN ALL CONTINGENCY
3 FUND GRANTS.—Section 403(b)(6) of such Act (42
4 U.S.C. 603(b)(6)) is amended—

5 (1) in subparagraph (A), in the matter pre-
6 ceding clause (i), by inserting “the amount specified
7 in subparagraph (D), if applicable, and otherwise”
8 after “is not a needy State”; and

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

10 “(D) FULL REPAYMENT REQUIRED IF
11 STATE HAS SUBSTANTIAL FUNDS UNOBLI-
12 GATED.—A State shall remit to the Secretary,
13 as provided in subparagraph (A), the entire
14 payment made under this subsection for a fiscal
15 year if the State fails to obligate, on or before
16 the last day of the fiscal year—

17 “(i) 90 percent of all grants under
18 subsection (a)(1) to which the State is en-
19 titled for the fiscal year; and

20 “(ii) all grants received under sub-
21 section (a) for prior fiscal years.”.

22 **SEC. 634. EFFECTIVE DATE.**

23 The amendments made by this part shall be effective
24 with respect to fiscal year 2000 and succeeding fiscal
25 years.

Subtitle G—Health Care

PART I—MEDICARE SAVERS

SEC. 711. REFERENCES IN PART.

Except as otherwise provided in this part, references to a section or other provision of law are references to the Social Security Act, and amendments made by this part to a section or other provision of law are amendments to such section or other provision of that Act.

SEC. 712. REDUCTION OF CLINICAL DIAGNOSTIC LABORATORY TEST CAP FROM 74 PERCENT TO 72 PERCENT.

Section 1833(h)(4)(B) (42 U.S.C. 13951(h)(4)(B)) is amended—

(1) by striking “and” at the end of clause (vii);

(2) in clause (viii)—

(A) by inserting “and before January 1, 2000,” after “December 31, 1997,”; and

(B) by striking the period and inserting “, and”; and

(3) by adding at the end the following new clause:

“(ix) after December 31, 1999, is equal to 72 percent of such median.”.

1 **SEC. 713. ESTABLISHMENT OF NATIONAL LIMIT ON PAY-**
2 **MENTS FOR PROSTHETICS AND ORTHOTICS.**

3 Section 1834(h) (42 U.S.C. 1395m(h)) is amended—

4 (1) in paragraph (1)—

5 (A) in subparagraph (B)(ii), by inserting
6 “or (3), as applicable,” after “paragraph (2)”;

7 and

8 (B) in subparagraph (E)—

9 (i) in the heading, by inserting before
10 the period “FOR ITEMS FURNISHED BE-
11 FORE 2000”; and

12 (ii) by striking “Payment for” and in-
13 sserting “For items furnished before 2000,
14 payment for”;

15 (2) in paragraph (2)—

16 (A) in the heading, by inserting before the
17 period “FOR ITEMS FURNISHED BEFORE 2000”;

18 (B) in the matter preceding subparagraph
19 (A), by striking “For purposes of” and insert-
20 ing “For items furnished before 2000, for pur-
21 poses of”;

22 (C) in subparagraph (B)(ii), by striking
23 “for each subsequent year” and inserting “for
24 each of 1993 through 1999”;

25 (D) in subparagraph (C)—

1 (i) in the heading, by inserting before
2 the period “FOR ITEMS FURNISHED BE-
3 FORE 2000”;

4 (ii) in the matter preceding clause (i),
5 by striking “For purposes of” and insert-
6 ing “For items furnished before 2000, for
7 purposes of”; and

8 (iii) in clause (iv), by striking “1994
9 or a subsequent year” and inserting “each
10 of 1994 through 1999”; and

11 (E) in subparagraph (D)(ii), by striking
12 “in a subsequent year” and inserting “in each
13 of 1993 through 1999”;

14 (3) by redesignating paragraphs (3) and (4) as
15 paragraphs (4) and (5), respectively;

16 (4) by inserting after paragraph (2) the fol-
17 lowing new paragraph:

18 “(3) PURCHASE PRICE RECOGNIZED FOR 2000
19 AND SUBSEQUENT YEARS.—For 2000 and each sub-
20 sequent year, for purposes of paragraph (1), the
21 amount recognized under this paragraph as the pur-
22 chase price for prosthetic devices, orthotics, and
23 prosthetics is the national limited payment amount
24 for purchase of the item for that year determined in

1 accordance with subparagraphs (B) and (C) of sec-
2 tion 1834(a)(2).”; and

3 (5) in paragraph (5)(A), as so redesignated—

4 (A) by adding “and” at the end of clause
5 (iv);

6 (B) by amending clause (v) to read as fol-
7 lows:

8 “(v) for 1998 and 1999, 1 percent.”;

9 and

10 (C) by striking clause (vi).

11 **SEC. 714. REDUCTION IN PAYMENT FOR BAD DEBTS.**

12 (a) REDUCTION IN PAYMENT FOR HOSPITAL BAD
13 DEBTS.—Section 1861(v)(1)(T)(iii) (42 U.S.C.
14 1395x(v)(1)(T)(iii)) is amended by striking “45 percent”
15 and inserting “55 percent”.

16 (b) EXTENSION OF BAD DEBT PAYMENT LIMITA-
17 TION TO OTHER RELEVANT FACILITIES AND PROVIDERS
18 OF SERVICES.—Section 1861(v)(1)(T) (42 U.S.C.
19 1395x(v)(1)(T)), as amended by subsection (a), is further
20 amended—

21 (1) by redesignating clauses (i) through (iii) as
22 subclauses (I) through (III), respectively;

23 (2) by inserting “(i)” after “(T)”;

24 (3) by adding at the end the following new
25 clause:

1 “(ii) In determining such reasonable or allowable
 2 costs for all facilities or other providers of services entitled
 3 to claim bad debt reimbursement, the amount of bad debts
 4 treated as allowable costs which are attributable to the
 5 deductibles and coinsurance amounts under this title shall
 6 be reduced for cost reporting periods beginning on or after
 7 October 1, 1999, by 55 percent of such amount otherwise
 8 allowable.”.

9 (c) REPEAL OF MORATORIUM ON BAD DEBT POL-
 10 ICY.—Section 4008(c) of the Omnibus Budget Reconcili-
 11 ation Act of 1987 (42 U.S.C. 1395f note) is repealed.

12 **SEC. 715. PPS HOSPITAL PAYMENT UPDATE FOR FISCAL**
 13 **YEAR 2000.**

14 Section 1886(b)(3)(B)(i)(XV) (42 U.S.C.
 15 1395ww(b)(3)(B)(i)(XV)) is amended by striking “the
 16 market basket percentage increase minus 1.8 percentage
 17 points for hospitals in all areas” and inserting “0 per-
 18 cent”.

19 **SEC. 716. NO MARKUP FOR COVERED DRUGS; ELIMINATION**
 20 **OF OVERPAYMENTS FOR EPOGEN.**

21 (a) NO MARKUP FOR COVERED DRUGS.—Section
 22 1842(o)(1) (42 U.S.C. 1395u(o)(1)) is amended by strik-
 23 ing “is equal to 95 percent of the average wholesale price.”
 24 and inserting “is equal to—

1 “(A) for 1998 and 1999, 95 percent of the
2 average wholesale price, and

3 “(B) for 2000 and each subsequent year,
4 83 percent of the average wholesale price.”.

5 (b) ELIMINATION OF OVERPAYMENTS FOR
6 EPOGEN.—Section 1881(b)(11)(B)(ii) (42 U.S.C.
7 1395rr(b)(11)(B)(ii)) is amended—

8 (1) in subclause (I)—

9 (A) by striking “provided during 1994”
10 and inserting “provided before 2000”; and

11 (B) by striking “and” at the end;

12 (2) by redesignating subclause (II) as subclause
13 (III); and

14 (3) by inserting after subclause (I) the fol-
15 lowing new subclause:

16 “(II) for erythropoietin provided during
17 2000, in an amount equal to \$9 per thousand
18 units (rounded to the nearest 100 units), and”.

19 **SEC. 717. PARTIAL HOSPITALIZATION SERVICES.**

20 (a) SERVICES NOT TO BE FURNISHED IN RESIDEN-
21 TIAL SETTINGS.—Section 1861(ff)(3)(A) (42 U.S.C.
22 1395x(ff)(3)(A)) is amended by inserting “other than in
23 an individual’s home or in an inpatient or residential set-
24 ting” before the period.

1 (b) ADDITIONAL REQUIREMENTS FOR COMMUNITY
2 MENTAL HEALTH CENTERS.—Section 1861(ff)(3)(B) (42
3 U.S.C. 1395x(ff)(3)(B)) is amended by striking “entity—
4 ” and all that follows and inserting the following: “entity
5 that—

6 “(i) provides the services specified in section
7 1913(e)(1) of the Public Health Service Act;

8 “(ii) meets applicable certification or licensing
9 requirements for community mental health centers
10 in the State in which it is located; and

11 “(iii) meets such additional standards or re-
12 quirements as the Secretary may specify in the in-
13 terest of the health and safety of individuals fur-
14 nished services, or for the effective or efficient fur-
15 nishing of services.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 subsections (a) and (b) apply to services furnished after
18 the date that is 60 days after the date of enactment of
19 this part.

20 **SEC. 718. INFORMATION REQUIREMENTS.**

21 (a) INFORMATION FROM GROUP HEALTH PLANS.—
22 Section 1862(b) (42 U.S.C. 1395y(b)) is amended by add-
23 ing at the end the following new paragraph:

24 “(7) INFORMATION FROM GROUP HEALTH
25 PLANS.—

1 “(A) PROVISION OF INFORMATION BY
2 GROUP HEALTH PLANS.—The administrator of
3 a group health plan subject to the requirements
4 of paragraph (1) shall provide to the Secretary
5 any or all of the information elements listed in
6 subparagraph (C), and in such manner and at
7 such times (but not more frequently than four
8 times per year), as the Secretary may specify,
9 with respect to each individual covered under
10 the plan and entitled to benefits under this
11 title.

12 “(B) PROVISION OF INFORMATION BY
13 DEPLOYERS WIND EMPLOYEE ORGANIZA-
14 TIONS.—An employer (or employee organiza-
15 tion) that maintains or participates in a group
16 health plan subject to the requirements of para-
17 graph (1) shall provide to the administrator of
18 the plan any or all of the information elements
19 listed in subparagraph (C), and in such manner
20 and at such times (but not more frequently
21 than four times per year), as the Secretary may
22 specify, with respect to each individual covered
23 under the plan and entitled to benefits under
24 this title.

1 “(C) INFORMATION ELEMENTS TO BE PRO-
2 VIDED.—The information elements to be pro-
3 vided under subparagraph (A) or (B) are the
4 following:

5 “(i) ELEMENTS CONCERNING THE IN-
6 DIVIDUAL.—

7 “(I) The individual’s name.

8 “(II) The individual’s date of
9 birth.

10 “(III) The individual’s sex.

11 “(IV) The individual’s social se-
12 curity number.

13 “(V) The number assigned by the
14 Secretary to the individual for claims
15 under this title.

16 “(VI) The family relationship of
17 the individual to the person who has
18 or had current or former employment
19 status with the employer.

20 “(ii) ELEMENTS CONCERNING THE
21 FAMILY MEMBER WITH CURRENT OR
22 FORMER EMPLOYMENT STATUS.—

23 “(I) The name of the person in
24 the individual’s family who has cur-

1 rent or former employment status
2 with the employer.

3 “(II) That person’s social secu-
4 rity number.

5 “(III) The number or other iden-
6 tifier assigned by the plan to that per-
7 son.

8 “(IV) The periods of coverage for
9 that person under the plan.

10 “(V) The employment status of
11 that person (current or former) dur-
12 ing those periods of coverage.

13 “(VI) The classes of that per-
14 son’s family members covered under
15 the plan.

16 “(iii) PLAN ELEMENTS.—

17 “(I) The nature of the items and
18 services covered under the plan.

19 “(II) The name and address to
20 which claims under the plan are to be
21 sent.

22 “(III) The name, address, and
23 tax identification number of the plan
24 sponsor.

1 “(iv) ELEMENTS CONCERNING THE
2 EMPLOYER.—

3 “(I) The employer’s name.

4 “(II) The employer’s address.

5 “(III) The employer identifica-
6 tion number of the employer.

7 “(IV) The employer tax identi-
8 fication number of the employer (if
9 different from the number under sub-
10 clause (III)).

11 “(D) USE OF IDENTIFIERS.—The adminis-
12 trator of a group health plan shall utilize an
13 identifier for the plan (that the Secretary may
14 furnish) in providing information under sub-
15 paragraph (A) and in other transactions, as
16 may be specified by the Secretary, related to
17 the provisions of this subsection.

18 “(E) PENALTY FOR NONCOMPLIANCE.—
19 Any entity that knowingly and willfully fails to
20 comply with a requirement imposed by the pre-
21 vious subparagraphs shall be subject to a civil
22 money penalty not to exceed \$1,000 for each in-
23 cident of such failure. The provisions of section
24 1128A (other than subsections (a) and (b))
25 shall apply to a civil money penalty under the

1 previous sentence in the same manner as those
2 provisions apply to a penalty or proceeding
3 under section 1128A(a).”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) is effective 180 days after the date of enact-
6 ment of this part.

7 **SEC. 719. CENTERS OF EXCELLENCE.**

8 (a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et
9 seq.) is amended by inserting after section 1888 the fol-
10 lowing new section:

11 “CENTERS OF EXCELLENCE

12 “SEC. 1889. (a) IN GENERAL.—The Secretary shall
13 use a competitive process to contract with specific hos-
14 pitals or other entities for furnishing services related to
15 surgical procedures, and for furnished services (unrelated
16 to surgical procedures) to hospital inpatients that the Sec-
17 retary determines to be appropriate. Such services may in-
18 clude any services covered under this title that the Sec-
19 retary determines to be appropriate, including post-hos-
20 pital services.

21 “(b) QUALITY STANDARDS.—Only entities that meet
22 quality standards established by the Secretary shall be eli-
23 gible to contract under this section. Entities shall imple-
24 ment a quality improvement plan approved by the Sec-
25 retary.

1 “(c) PAYMENT.—Payment under this section shall be
2 made on the basis of negotiated all-inclusive rates. The
3 amount of payment made by the Secretary to an entity
4 under this title for services covered under a contract shall
5 be less than the aggregate amount of the payments that
6 the Secretary would have otherwise made for the services.

7 “(d) CONTRACT PERIOD.—A contract period shall be
8 3 years (subject to renewal), as long as the entity con-
9 tinues to meet quality and other contractual standards.

10 “(e) INCENTIVES FOR USE OF CENTERS.—The Sec-
11 retary may permit entities under a contract under this sec-
12 tion to furnish additional services or waive beneficiary
13 cost-sharing, subject to the approval of the Secretary.

14 “(f) LIMIT ON NUMBER OF CENTERS.—The Sec-
15 retary shall limit the number of centers in a geographic
16 area to the number needed to meet projected demand for
17 contracted services.”.

18 (b) EFFECTIVE DATES.—

19 (1) The amendment made by subsection (a) ap-
20 plies to services furnished on or after October 1,
21 2000.

22 (2) Not later than October 1, 2000, the Sec-
23 retary shall enter into contracts under the amend-
24 ment made by subsection (a) for coronary artery by-
25 pass surgery and other heart procedures, knee re-

1 placement surgery, and hip replacement surgery, in
2 geographic areas nationwide such that at least 20
3 percent of the projected number of those procedures
4 can be provided.

5 **SEC. 719A. EFFECT OF ENACTMENT.**

6 Not more than \$1,100,000,000 of the savings for fis-
7 cal year 2000 resulting from the enactment of this part
8 may be treated as negative discretionary budget authority
9 and outlays for such fiscal year.

10 **PART II—FOOD AND DRUG ADMINISTRATION**

11 **USER FEES**

12 **SEC. 720. REFERENCES IN PART.**

13 Except as otherwise provided in this part, references
14 to a section or other provision of law are references to
15 the Federal Food, Drug, and Cosmetic Act, and amend-
16 ments made by this part to a section or other provision
17 of law are amendments to such section or other provision
18 of that Act.

19 **Subpart A—Medical Device Fees**

20 **SEC. 721. SHORT TITLE.**

21 This subpart may be cited as the “Medical Device
22 Fee Act of 1999”.

23 **SEC. 722. FEES RELATING TO DEVICES.**

24 Chapter VII (21 U.S.C. 371 et seq.) is amended—

1 (1) by redesignating sections 741, 742, 746,
2 751, 752, and 756, respectively; and

3 (2) by adding at the end of subchapter C the
4 following new part:

5 **“PART 3—FEES RELATING TO DEVICES**

6 **“SEC. 741. DEFINITIONS.**

7 “For the purposes of this part, the terms listed in
8 this section have the following meanings:

9 “(1) DEVICE APPLICATIONS.—The term ‘device
10 application’ means—

11 “(A) an application for approval of a de-
12 vice submitted under section 515(e) or section
13 351 of the Public Health Service Act;

14 “(B) a supplement to an application de-
15 scribed in subparagraph (A); or

16 “(C) a product development protocol de-
17 scribed in section 515(f).

18 “(2) SUPPLEMENT.—The term ‘supplement’
19 means a request to the Secretary to approve a
20 change in a device for which a notice of completion
21 has become effective under section 515(f) or for
22 which an application has been approved under sec-
23 tion 515(d) or under section 351 of the Public
24 Health Service Act.

1 “(3) ESTABLISHMENT.—The term ‘establish-
2 ment’ means an establishment engaged in the manu-
3 facture, preparation, propagation, compounding, or
4 processing of a device or devices, with respect to
5 which the person owning or operating such establish-
6 ment is subject to the annual registration require-
7 ment under section 510. For purposes of the fees
8 under this part, a place of business that is owned or
9 operated by a single person, and which is at 1 gen-
10 eral physical location consisting of 1 or more build-
11 ings all of which are within 5 miles of each other,
12 shall be considered a single establishment.

13 “(4) PERIODIC PMA REPORT.—The term ‘peri-
14 odic PMA report’ means any of such periodic reports
15 as the Secretary may be regulation require of the
16 holder of an approved premarket application or
17 product development protocol pursuant to section
18 515.

19 “(5) PROCESS FOR THE REVIEW OF DEVICE AP-
20 PLICATIONS.—The term ‘process for the review of
21 device applications’ means the following activities of
22 the Secretary with respect to the review of device ap-
23 plications and related activities:

1 “(A) The activities necessary for the re-
2 view of device applications and related activi-
3 ties.

4 “(B) The issuance of action letters which
5 allow marketing of devices or which set forth in
6 detail the specific deficiencies in such applica-
7 tions and, where appropriate, the actions nec-
8 essary to place such applications in approvable
9 form.

10 “(C) The inspection of device establish-
11 ments and other facilities undertaken as part of
12 the Secretary’s review of pending device appli-
13 cations.

14 “(D) Any activity necessary for the review
15 of applications—

16 “(i) for licensure of devices subject to
17 section 351 of the Public Health Service
18 Act; and

19 “(ii) for the release of lots of such de-
20 vices.

21 “(E) Review of device applications for an
22 investigational new drug exemption under sec-
23 tion 505(i) or for an investigational device ex-
24 emption under section 520(g) and activities

1 conducted in anticipation of the submission of
2 an application under section 505(i) or 520(g).

3 “(F) The development of guidance, policy
4 documents, or regulations to improve the proc-
5 ess for the review of device applications.

6 “(G) The development of test methods or
7 standards in connection with the review of de-
8 vice applications and related activities.

9 “(H) The provision of technical assistance
10 to device manufacturers in connection with the
11 submission of a device application.

12 “(I) Any activity undertaken under section
13 513 or 515(i) in connection with the initial clas-
14 sification or reclassification of a device or under
15 section 515(b) in connection with any require-
16 ment for approval of a device.

17 “(J) Monitoring of research on devices.

18 “(K) Any activity undertaken under sec-
19 tion 519(a) or 519(b).

20 “(L) Evaluation of postmarket studies re-
21 quired as a condition of an approval of a device
22 application under section 515(d) or section 351
23 of the Public Health Service Act.

24 “(M) Evaluation of postmarket surveil-
25 lance required under section 522.

1 “(6) COSTS OF RESOURCES ALLOCATED FOR
2 THE PROCESS FOR THE REVIEW OF DEVICE APPLI-
3 CATIONS.—The term ‘costs of resources allocated for
4 the process for the review of device applications’
5 means the expenses incurred in connection with the
6 process for the review of device applications and re-
7 lated activities for—

8 “(A) officers and employees of the Food
9 and Drug Administration, employees under con-
10 tract with the Food and Drug Administration,
11 advisory committees, and costs related to such
12 officers, employees, and committees;

13 “(B) management of information, and the
14 acquisition, maintenance, and repair of com-
15 puter resources;

16 “(C) leasing, maintenance, renovation, and
17 repair of facilities and acquisition, maintenance,
18 and repair of fixtures, furniture, scientific
19 equipment, and other necessary materials, serv-
20 ices, and supplies; and

21 “(D) collecting fees under section 742 and
22 accounting for resources allocated for the re-
23 view of device applications, including activities
24 related to the review of applications for fee ex-
25 ceptions, waivers, and reductions.

1 “(7) ADJUSTMENT FACTOR.—The term ‘adjust-
2 ment factor’ has the meaning given that term in sec-
3 tion 735(8), except that references therein—

4 “(A) to ‘1997’ shall be read to mean
5 ‘1999’; and

6 “(B) to ‘the 105th Congress’ shall be read
7 to mean ‘the 106th Congress’.

8 **“SEC. 742. AUTHORITY TO ASSESS AND USE DEVICE FEES.**

9 “(a) TYPES OF FEES.—Beginning in fiscal year
10 2000, the Secretary shall assess and collect fees in accord-
11 ance with this section as follows:

12 “(1) DEVICE APPLICATION FEE.—

13 “(A) IN GENERAL.—Subject to the remain-
14 ing provisions of this section, except as provided
15 in subparagraph (B), each person that submits
16 a device application on or after October 1,
17 1999, shall be subject to the fee prescribed by
18 subsection (b). Before April 30, 2000, the Sec-
19 retary shall establish guidelines for the com-
20 bination of multiple device applications in those
21 situations where it is appropriate to combine
22 the applications and assess a single fee. A sin-
23 gle fee shall be assessed upon an application
24 which is such a combination.

25 “(B) EXCEPTIONS.—

1 “(i) FURTHER MANUFACTURING
2 USE.—No fee shall be required for the sub-
3 mission of a device application under sec-
4 tion 351 of the Public Health Service Act
5 for a product licensed for further manufac-
6 turing use only.

7 “(ii) PREVIOUSLY FILED APPLICATION
8 OR SUPPLEMENT.—If a device application
9 was—

10 “(I) submitted by a person that
11 paid the fee for such application;

12 “(II) accepted for filing; and

13 “(III) not approved or was with-
14 drawn,

15 the submission of a device application for
16 the identical device by the same person (or
17 the person’s licensee, assignee, or suc-
18 cessor) shall not be subject to a fee under
19 subparagraph (A).

20 “(iii) SPECIAL LABELING IMPROVE-
21 MENTS.—No fee shall be required for the
22 submission of a device application for a
23 change in approved labeling that enhances
24 the safety of the device or the safety in the
25 use of the device.

1 “(2) ESTABLISHMENT REGISTRATION FEE.—
2 Each person that is subject to the annual registra-
3 tion requirement under section 510 with respect to
4 1 or more establishments shall be assessed an an-
5 nual fee established in subsection (b) for each such
6 establishment.

7 “(3) PERIODIC PMA REPORT FEE.—Each per-
8 son that is required to make a periodic PMA report
9 on or after October 1, 1999, shall be assessed and
10 annual fee established in subsection (b) for each de-
11 vice with respect to which such report is required.

12 “(b) FEE AMOUNTS.—Except as otherwise provided
13 in this section, the fees required under subsection (a) shall
14 be determined and assessed as follows:

15 “(1) FOR FISCAL YEAR 2000.—

16 “(A) APPLICATION AND SUPPLEMENT
17 FEES.—The application fee under subsection
18 (a)(1) shall be—

19 “(i) \$40,000 for a device application
20 described in subparagraph (A) or (C) of
21 section 741(1); and

22 “(ii) \$4,590 for a device application
23 described in subparagraph (B) of section
24 741(1).

1 “(B) ESTABLISHMENT REGISTRATION
2 FEE.—The annual establishment registration
3 fee under subsection (a)(2) shall be \$200.

4 “(C) PERIODIC PMA REPORT FEE.—The
5 periodic PMA report fee under subsection
6 (a)(3) shall be \$1,000.

7 “(2) INFLATION ADJUSTMENT FOR SUBSE-
8 QUENT YEARS.—The fees established in subsection
9 (b) shall be adjusted by the Secretary by notice,
10 published in the Federal Register, for fiscal year
11 2001 and each succeeding fiscal year to reflect an
12 inflation adjustment determined as described in sec-
13 tion 736(c)(1), except that the reference therein to
14 ‘fiscal year 1997’ shall be considered to mean ‘fiscal
15 year 2000’.

16 “(c) SPECIAL CIRCUMSTANCES FOR FEE WAIVER OR
17 REDUCTION; SMALL BUSINESS EXCEPTION.—

18 “(1) WAIVERS.—The Secretary shall grant a
19 waiver from or a reduction of a fee for a person
20 under this subsection if the person has submitted an
21 application under section 515(c) or 515(f), or under
22 section 351 of the Public Health Service Act and if
23 the Secretary finds—

1 “(A) that such application is a device ap-
2 plication for a device which has a humanitarian
3 device exemption under section 520(m); or

4 “(B)(i) such waiver or reduction is nec-
5 essary to protect the public health; or

6 “(ii) the assessment of the fee would
7 present a significant barrier to innovation be-
8 cause of limited resources available to such per-
9 son or other circumstances.

10 “(2) SMALL BUSINESS EXCEPTION.—

11 “(A) APPLICATIONS AND SUBMISSIONS.—

12 The Secretary may waive the fee for any person
13 employing fewer than 20 employees, including
14 employees of affiliates (as defined in section
15 735(9)), that does not have, and whose affili-
16 ates do not have, an approved application sub-
17 mitted under section 515(c) or under section
18 351 of the Public Health Service Act or a
19 cleared premarket notification under section
20 510(k).

21 “(B) CERTIFICATION.—The Secretary
22 shall require any person who seeks a waiver in
23 accordance with subparagraph (A) to certify
24 such person’s qualification under such subpara-
25 graph. The Secretary shall periodically publish

1 in the Federal Register a list of persons making
2 such certification.

3 “(d) PAYMENT DEADLINE; EFFECT OF FAILURE TO
4 PAY FEES.—

5 “(1) DEVICE APPLICATION FEE.—A device ap-
6 plication fee required under this section shall be due
7 at the time the application is submitted to the Sec-
8 retary. A device application or supplement submitted
9 by a person subject to fees under this section shall
10 be considered incomplete and shall not be accepted
11 for review by the Secretary until all such fees owed
12 by such person have been paid.

13 “(2) ESTABLISHMENT REGISTRATION FEE.—An
14 establishment registration fee required under this
15 section shall be due not later than December 31 of
16 each year. A device establishment for which a fee
17 due under this section has not been paid by such
18 date shall not be considered a registered establish-
19 ment for purposes of section 510.

20 “(3) PERIODIC PMA REPORT FEE.—A periodic
21 PMA report fee shall be due not later than the due
22 date of the periodic PMA report, as set forth in the
23 notice approving the PMA application (or, in the
24 case of a PMA for which reports are required to be
25 submitted more often than annually, on the due date

1 of the first such report in such fiscal year). A peri-
2 odic PMA report with respect to which such annual
3 fee has not been paid by such due date shall not be
4 considered to have been filed as required in the no-
5 tice of approval of the PMA.

6 “(4) ADDITIONAL SANCTIONS.—In addition to
7 the sanctions described above, the Secretary may—

8 “(A) discontinue review of any device ap-
9 plication submitted by a person if such person
10 has not paid all fees owed under this section;
11 and

12 “(B) assess a penalty of 25 percent of the
13 fee due, in the case of any fee overdue by more
14 than 3 months.

15 “(e) REFUND OF FEES.—

16 “(1) IF DEVICE APPLICATION REFUSED.—The
17 Secretary shall refund 75 percent of the fee paid
18 under subsection (d)(1) for any device application
19 which the Secretary refuses to accept for review.

20 “(2) IF DEVICE APPLICATION WITHDRAWN.—If
21 a device application is withdrawn after the Secretary
22 has accepted it for review, the Secretary may refund
23 all or a portion of the fee if no substantial work was
24 performed on the application after acceptance for re-
25 view. The determination whether to refund all or any

1 portion of the fee shall be in the Secretary's sole dis-
2 cretion and shall not be reviewable.

3 “(f) GENERAL CONDITIONS APPLICABLE TO FEE AS-
4 SESSMENT AUTHORITY.—

5 “(1) LIMITATION.—Fees may not be assessed
6 under this section for a fiscal year beginning after
7 fiscal year 2000 unless appropriations for such fiscal
8 year for salaries and expenses of the Food and Drug
9 Administration (excluding amounts appropriated for
10 fees under this subchapter), and for that portion of
11 such appropriation designated for the Center for De-
12 vices and Radiological Health, equal or exceed such
13 appropriations for fiscal year 1999 multiplied by the
14 adjustment factor.

15 “(2) DELAYED ASSESSMENT.—If the Secretary
16 does not assess fees under this section during any
17 portion of a fiscal year because of paragraph (1) and
18 if at a later date in such fiscal year the Secretary
19 may assess such fees, the Secretary may assess and
20 collect such fees, without modification in the rate, at
21 any time in such fiscal year notwithstanding the pro-
22 visions of subsection (d) relating to the date fees are
23 to be paid.

24 “(g) CREDITING AND AVAILABILITY OF FEES.—

1 “(1) IN GENERAL.—Fees authorized under this
2 section shall be available for obligation only to the
3 extent and in the amounts provided in advance in
4 appropriations Acts. Such fees are authorized to be
5 appropriated to remain available until expended sole-
6 ly for the review of device applications. Such fees
7 shall be credited to the appropriation account for
8 salaries and expenses of the Food and Drug Admin-
9 istration. Any amount of fees collected for a fiscal
10 year under this subsection that exceeds the amount
11 of fees made available in appropriations Acts for
12 such fiscal year may be credited to the appropriation
13 account for salaries and expenses of the Food and
14 Drug Administration. Excess fees may be retained
15 but are not available for obligation until appro-
16 priated. Such sums as may be necessary may be
17 transferred from the Food and Drug Administration
18 salaries and expenses appropriation account without
19 fiscal year limitation to such appropriation account
20 for salaries and expenses with such fiscal year limi-
21 tation.

22 “(2) LIMITATION.—The fees authorized by this
23 section shall only be available to defray increases in
24 the costs of the resources allocated for the process
25 for the review of device applications (including in-

1 creases in such costs for an additional number of
2 full-time equivalent employees in the Department of
3 Health and Human Services to be engaged in such
4 process) over such costs for fiscal year 1999 multi-
5 plied by the adjustment factor.

6 “(h) AUTHORIZATION OF APPROPRIATIONS.—

7 “(1) DEVICE APPLICATION FEES.—There are
8 authorized to be appropriated for device application
9 fees under this section—

10 “(A) \$3,645,000 for fiscal year 2000;

11 “(B) \$3,745,000 for fiscal year 2001;

12 “(C) \$3,845,000 for fiscal year 2002;

13 “(D) \$3,945,000 for fiscal year 2003; and

14 “(E) \$4,000,000 for fiscal year 2004.

15 “(2) ESTABLISHMENT REGISTRATION FEES.—

16 There are authorized to be appropriated for estab-
17 lishment registration fees under this section—

18 “(A) \$2,880,000 for fiscal year 2000;

19 “(B) \$2,955,000 for fiscal year 2001;

20 “(C) \$3,030,000 for fiscal year 2002;

21 “(D) \$3,100,000 for fiscal year 2003; and

22 “(E) \$3,200,000 for fiscal year 2004.

23 “(3) PERIODIC PMA REPORT FEES.—There are

24 authorized to be appropriated for periodic PMA re-
25 port fees under this section—

1 “(A) \$475,000 for fiscal year 2000;

2 “(B) \$500,000 for fiscal year 2001;

3 “(C) \$525,000 for fiscal year 2002;

4 “(D) \$550,000 for fiscal year 2003; and

5 “(E) \$570,000 for fiscal year 2004.

6 “(i) COLLECTION OF UNPAID FEES.—In any case
7 where the Secretary does not receive payment of a fee as-
8 sessed under this section within 30 days after it is due,
9 such fee shall be treated as a claim of the United States
10 Government subject to subchapter II of chapter 37 of title
11 31, United States Code.

12 “(j) ANNUAL REPORT.—Beginning with fiscal year
13 2000, not later than 120 days after the end of each fiscal
14 year during which fees are collected under this part the
15 Secretary shall prepare and submit to the Committee on
16 Commerce of the House of Representatives and the Com-
17 mittee on Health, Education, Labor, and Pensions of the
18 Senate a report concerning—

19 “(1) the reduction in the backlog for the review
20 of device applications and the reduction in the
21 amount of time to complete review of such applica-
22 tions after submission;

23 “(2) the implementation of the authority for
24 such fees during such fiscal year; and

1 “(3) the use, by the Food and Drug Adminis-
2 tration, of the fees collected during such fiscal
3 year.”.

4 **SEC. 723. SUNSET.**

5 The amendments made by this subpart shall not be
6 in effect after September 30, 2005.

7 **Subpart B—Fees To Support Costs of Review of Food**
8 **and Color Additive Petitions**

9 **SEC. 725. SHORT TITLE.**

10 This subpart may be cited as the “Food and Color
11 Additive Petition Fee Act of 1999”.

12 **SEC. 726. FEES TO SUPPORT COSTS OF FOOD AND COLOR**
13 **ADDITIVE PETITIONS.**

14 Chapter VII (21 U.S.C. 371 et seq.) is further
15 amended by adding at the end of subchapter C the fol-
16 lowing new part:

17 **“PART 4—FEES RELATING TO FOOD AND COLOR**
18 **ADDITIVE PETITIONS**

19 **“SEC. 750. AUTHORITY TO ASSESS AND USE FEES.**

20 “(a) DEFINITIONS.—For purposes of this part, the
21 terms listed in this subsection have the following mean-
22 ings:

23 “(1) FOOD ADDITIVE PETITION.—The term
24 ‘food additive petition’ means a petition submitted
25 pursuant to section 409(b).

1 “(2) COLOR ADDITIVE PETITION.—The term
2 ‘color additive petition’ means a petition submitted
3 pursuant to section 721(d).

4 “(3) PETITION REVIEW ACTIVITIES.—The term
5 ‘petition review activities’ means the following activi-
6 ties of the Secretary with respect to the review of
7 food additive and color additive petitions:

8 “(A) The activities necessary for the re-
9 view of food additive and color additive peti-
10 tions and related activities.

11 “(B) The issuance of regulations which
12 allow marketing of an additive or written cor-
13 respondence or other documentation which sets
14 forth the deficiencies in such an additive peti-
15 tion and, where appropriate, the actions nec-
16 essary to resolve such deficiencies.

17 “(C) The evaluation of the regulatory sta-
18 tus and issuance of correspondence or other
19 written documentation concerning the sub-
20 stances described in paragraphs (1) through (4)
21 of section 908(a).

22 “(D) The inspection of testing facilities
23 undertaken as part of the Secretary’s review of
24 a pending additive petition.

1 “(E) The development of guidance and pol-
2 icy documents regarding the review of additive
3 petitions.

4 “(F) The development of test methods and
5 standards in connection with the review of addi-
6 tive petitions and related activities.

7 “(G) The provision of technical assistance
8 to prospective petitioners in connection with the
9 submission of an additive petition.

10 “(H) Monitoring of studies and data per-
11 taining to the safety of substances described in
12 paragraphs (1) through (4) of section 908(a).

13 “(I) The activities necessary for registra-
14 tion under section 908.

15 “(4) COSTS OF RESOURCES ALLOCATED FOR
16 PETITION REVIEW ACTIVITIES.—The term ‘costs of
17 resources allocated for petition review activities’
18 means the expenses incurred in connection with the
19 process for the review of food and color additive pe-
20 titions and related activities for—

21 “(A) officers and employees of the Food
22 and Drug Administration, employees under con-
23 tract with the Food and Drug Administration,
24 advisory committees, and costs related to such
25 officers, employees, and committees;

1 “(B) management of information, and the
2 acquisition, maintenance, and repair of com-
3 puter resources;

4 “(C) leasing, maintenance, renovation, and
5 repair of facilities and acquisition, maintenance,
6 and repair of fixtures, furniture, scientific
7 equipment, and other necessary materials, serv-
8 ices, and supplies; and

9 “(D) collecting fees under this section and
10 accounting for resources allocated for petition
11 review activities, including activities related to
12 the review of applications for fee exceptions,
13 waivers, and reductions.

14 “(5) TIER I, TIER II, TIER III PETITIONS; REGU-
15 LATORY MODIFICATION.—

16 “(A) The term ‘tier I petition’ means a pe-
17 tition for approval of an additional use or uses
18 of an additive for which a use is already ap-
19 proved, except as otherwise provided in sub-
20 paragraph (B).

21 “(B) The term ‘tier II petition’ means—

22 “(i) a petition for first-time approval
23 of any use of an additive (other than a pe-
24 tition described in subparagraph (C)); or

1 “(ii) a petition for approval of an ad-
2 ditional use or uses of an already approved
3 additive, where the proposed additional use
4 would—

5 “(I) result in a significant in-
6 crease in dietary exposure to such
7 substance; or

8 “(II) raise novel safety issues.

9 “(C) The term ‘tier III petition’ means a
10 petition for first-time approval of any use of an
11 additive that would—

12 “(i) result in a significant dietary ex-
13 posure to such substance; or

14 “(ii) raise novel safety issues.

15 “(D) REGULATORY MODIFICATION.—The
16 Secretary may by regulation revise the defini-
17 tions in subparagraphs (A) through (C).

18 “(6) ADJUSTMENT FACTOR.—The term ‘adjust-
19 ment factor’ has the meaning given that term in sec-
20 tion 735(8), except that references therein—

21 “(A) to ‘1997’ shall be read to mean
22 ‘1999’; and

23 “(B) to ‘the 105th Congress’ shall be read
24 to mean ‘the 106th Congress’.

1 “(b) ASSESSMENT OF FEES.—Subject to the remain-
2 ing provisions of this section, except to the extent other-
3 wise provided in subsection (d), each person that, on or
4 after October 1, 1999—

5 “(1) submits a food or color additive petition;
6 or

7 “(2) is required to register under section 908
8 (other than a person that manufactures, processes,
9 or packages a substance that is subject to certifi-
10 cation under section 721(c)(1)), shall be subject to
11 fees under this part.

12 “(c) FEE AMOUNTS.—

13 “(1) FOR INITIAL FISCAL YEARS.—

14 “(A) FOR FOOD OR COLOR ADDITIVE PETI-
15 TION.—The fee under this part for a food or
16 color additive petition shall be—

17 “(i) FOR FISCAL YEAR 2000.—

18 “(I) \$15,000 for a tier I petition;

19 “(II) \$60,000 for a tier II peti-
20 tion; and

21 “(III) \$260,000 for a tier III pe-
22 tition.

23 “(ii) FOR FISCAL YEAR 2001.—

24 “(I) \$20,000 for a tier I petition;

1 “(II) \$88,500 for a tier II peti-
2 tion; and

3 “(III) \$275,000 for a tier III pe-
4 tition.

5 “(iii) FOR FISCAL YEAR 2002.—

6 “(I) \$27,000 for a tier I petition;

7 “(II) \$120,000 for a tier II peti-
8 tion; and

9 “(III) \$290,000 for a tier III pe-
10 tition.

11 “(iv) FOR FISCAL YEAR 2003.—

12 “(I) \$37,000 for a tier I petition;

13 “(II) \$155,000 for a tier II peti-
14 tion; and

15 “(III) \$345,000 for a tier III pe-
16 tition.

17 “(v) FOR FISCAL YEAR 2004.—

18 “(I) \$43,000 for a tier I petition;

19 “(II) \$175,000 for a tier II peti-
20 tion; and

21 “(III) \$400,000 for a tier III pe-
22 tition.

23 “(B) FOR REGISTRATION OF FOOD ADDI-
24 TIVE AND COLOR ADDITIVE PRODUCERS.—The

1 fee under this part for registration under sec-
2 tion 908 shall be—

3 “(i) \$4,500 for fiscal year 2000;

4 “(ii) \$7,380 for fiscal year 2001;

5 “(iii) \$9,927 for fiscal year 2002;

6 “(iv) \$12,390 for fiscal year 2003;

7 and

8 “(v) \$14,853 for fiscal year 2004,

9 for each place of business listed in the registra-
10 tion of such person under section 908.

11 “(2) INFLATION ADJUSTMENT.—The fees es-
12 tablished in paragraph (1) shall be adjusted by the
13 Secretary by notice, published in the Federal Reg-
14 ister, for fiscal year 2001 and each succeeding fiscal
15 year to reflect an inflation adjustment determined as
16 described in section 736(c)(1), except that the ref-
17 erence therein to ‘fiscal year 1997’ shall be consid-
18 ered to mean ‘fiscal year 2000’.

19 “(d) WAIVERS AND EXCEPTIONS FOR PETITION
20 FEES: EXTRAORDINARY CIRCUMSTANCES; SMALL BUSI-
21 NESS.—

22 “(1) EXTRAORDINARY CIRCUMSTANCES.—The
23 Secretary may waive or reduce food or color additive
24 petition fees based on extraordinary circumstances
25 as determined by the Secretary, including the cir-

1 cumstance of a food additive petition for a proposed
2 use of a substance that is intended to reduce signifi-
3 cantly human pathogens or their toxins in or on
4 food, where the petitioner demonstrates that assess-
5 ment of a fee would present a significant barrier to
6 innovation because the petitioner has limited re-
7 sources available.

8 “(2) SMALL BUSINESSES.—

9 “(A) IN GENERAL.—Any business that—

10 “(i) has fewer than 20 employees, in-
11 cluding employees of affiliates; and

12 “(ii) has not previously submitted a
13 petition under section 409 or under section
14 721,

15 shall pay $\frac{1}{2}$ the amount of the petition fee
16 under this part for the first submission
17 under such section 409 or section 721.

18 “(B) AFFILIATE.—For purposes of this
19 paragraph, the term ‘affiliate’ has the meaning
20 given that term in section 735(9).

21 “(e) PAYMENT DEADLINE; EFFECT OF FAILURE TO
22 PAY FEES.—

23 “(1) FOOD AND COLOR ADDITIVE PETITION
24 FEES.—Fees assessed under this section with re-
25 spect to a petition shall be due and payable at the

1 time the petition is submitted to the Secretary. A
2 food or color additive petition submitted by a person
3 subject to a fee under this section shall be consid-
4 ered incomplete and shall not be accepted by the
5 Secretary until all fees owed by such person have
6 been paid.

7 “(2) FOOD INGREDIENT AND COLOR ADDITIVE
8 PRODUCER REGISTRATION FEES.—Fees assessed
9 under this section for a fiscal year with respect to
10 a person required to register under section 908 shall
11 be due and payable not later than the registration
12 deadline specified in such section for such fiscal
13 year. A person that has not paid a fee due under
14 this section by such date shall not be considered reg-
15 istered for purposes of section 908.

16 “(f) REFUND OF ADDITIVE PETITION FEES.—

17 “(1) IF PETITION REFUSED.—The Secretary
18 shall refund 75 percent of the fee paid under sub-
19 section (e)(1) for any food or color additive petition
20 which the Secretary declines to file.

21 “(2) IF PETITION WITHDRAWN.—If a food or
22 color additive petition is withdrawn after the Sec-
23 retary has filed it, the Secretary may refund a por-
24 tion of the fee up to 75 percent if no substantial
25 work was performed on the petition after filing. The

1 determination whether to refund any portion of the
2 fee shall be in the Secretary's sole discretion, and
3 shall not be reviewable.

4 “(g) GENERAL CONDITIONS APPLICABLE TO FEE
5 ASSESSMENT AUTHORITY.—

6 “(1) LIMITATION.—Fees may not be assessed
7 under this section for a fiscal year beginning after
8 fiscal year 2000 unless appropriations for such fiscal
9 year for salaries and expenses of the Food and Drug
10 Administration (excluding amounts appropriated for
11 fees under this subchapter), and for that portion of
12 such appropriation designated for the Center for
13 Food Safety and Applied Nutrition, equal or exceed
14 such appropriations for fiscal year 1999 multiplied
15 by the adjustment factor.

16 “(2) DELAYED ASSESSMENT.—If the Secretary
17 does not assess fees under this part during any por-
18 tion of a fiscal year due to paragraph (1) and if at
19 a later date in such fiscal year the Secretary may as-
20 sess such fees, the Secretary may assess and collect
21 such fees, without modification in the rate, any time
22 in such fiscal year notwithstanding the provisions of
23 subsection (e) relating to the date fees are to be
24 paid.

25 “(h) CREDITING AND AVAILABILITY OF FEES.—

1 “(1) IN GENERAL.—Fees authorized under this
2 section shall be available for obligation only to the
3 extent and in the amounts provided in advance in
4 appropriations Acts. Such fees are authorized to be
5 appropriated to remain available until expended sole-
6 ly for the petition review activities set forth in sub-
7 section (a)(4). Such fees shall be credited to the ap-
8 propriation account for salaries and expenses of the
9 Food and Drug Administration. Any amount of fees
10 collected for a fiscal year under this subsection that
11 exceeds the amount of fees made available in appro-
12 priations Acts for such fiscal year may be credited
13 to the appropriation account for salaries and ex-
14 penses of the Food and Drug Administration. Ex-
15 cess fees may be retained but are not available for
16 obligation until appropriated. Such sums as may be
17 necessary may be transferred from the Food and
18 Drug Administration salaries and expenses appro-
19 priation account without fiscal year limitation to
20 such appropriation account for salaries and expenses
21 with such fiscal year limitation.

22 “(2) LIMITATION.—The fees authorized by this
23 section shall only be available to defray increases in
24 the costs of the resources allocated for petition re-
25 view activities (including increases in such costs for

1 an additional number of full-time equivalent employ-
2 ees in the Department of Health and Human Serv-
3 ices to be engaged in such process) over such costs
4 for fiscal year 1999, multiplied by the adjustment
5 factor.

6 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated for fees under this
8 section—

9 “(1) for food and color additive petitions—

10 “(A) \$1,300,000 for fiscal year 2000;

11 “(B) \$1,675,000 for fiscal year 2001;

12 “(C) \$2,250,000 for fiscal year 2002;

13 “(D) \$2,875,000 for fiscal year 2003; and

14 “(E) \$3,500,000 for fiscal year 2004 and

15 each succeeding fiscal year; and

16 “(2) for food ingredient and color additive
17 producers—

18 “(A) \$2,700,000 for fiscal year 2000;

19 “(B) \$4,428,000 for fiscal year 2001;

20 “(C) \$5,956,000 for fiscal year 2002;

21 “(D) \$7,434,000 for fiscal year 2003; and

22 “(E) \$8,912,000 for fiscal year 2004 and

23 each succeeding fiscal year,

24 adjusted to reflect the percentage adjustment of fees au-
25 thorized under subsection (c).

1 “(j) COLLECTION OF UNPAID FEES.—In any case
2 where the Secretary does not receive payment of a fee as-
3 sessed under this section within 30 days after it is due,
4 such fee shall be treated as a claim of the United States
5 Government subject to subchapter II of chapter 37 of title
6 31, United States Code.

7 “(k) PERFORMANCE GOALS.—Upon enactment of
8 this section, the Secretary shall send to the Congress a
9 letter which shall declare goals and timetables for review
10 by the Food and Drug Administration of food additive and
11 color additive petitions.

12 “(l) ANNUAL REPORT.—Beginning with fiscal year
13 2000, not later than 120 days after the end of each fiscal
14 year during which fees are collected under this part, the
15 Secretary shall submit to the Committee on Commerce of
16 the House of Representatives and the Committee on
17 Health, Education, Labor, and Pensions of the Senate a
18 report concerning—

19 “(1) the progress of the Food and Drug Admin-
20 istration in achieving the goals declared pursuant to
21 subsection (k);

22 “(2) the implementation of the authority for
23 such fees during such fiscal year; and

24 “(3) the use by the Food and Drug Administra-
25 tion of the fees collected during such fiscal year.”.

1 **SEC. 727. REGISTRATION OF FOOD INGREDIENT AND**
2 **COLOR ADDITIVE PRODUCERS.**

3 (a) REGISTRATION REQUIREMENT FOR PRO-
4 DUCERS.—Chapter IX (21 U.S.C. 391 et seq.) is amended
5 by adding at the end the following new section:

6 **“SEC. 907. REGISTRATION OF FOOD INGREDIENT AND**
7 **COLOR ADDITIVE PRODUCERS.**

8 “(a) REGISTRATION REQUIREMENT.—On or before
9 October 1, 1999 (or, if later, the date 3 months after the
10 date of enactment of this section), and on or before Octo-
11 ber 1 of each succeeding year, a person in any State en-
12 gaged in the manufacture, processing, or packaging of any
13 of the following substances shall register with the Sec-
14 retary the person’s name and all places of business of such
15 person engaged in such manufacture, processing, or pack-
16 aging:

17 “(1) A substance that is subject to regulation
18 under section 409 of this Act except a substance
19 that is distributed in interstate commerce on the
20 basis of section 409(a)(3)(B).

21 “(2) A substance that is distributed in inter-
22 state commerce on the basis that it is generally rec-
23 ognized as safe within the meaning of section 201(s)
24 of this Act, including any substance listed as gen-
25 erally recognized as safe in the Code of Federal Reg-
26 ulations, and any substance asserted to be generally

1 recognized as safe where the Food and Drug Admin-
2 istration has been notified of such assertion as part
3 of a notification program of the Food and Drug Ad-
4 ministration.

5 “(3) A substance that is distributed in inter-
6 state commerce on the basis of section 201(s)(4).

7 “(4) A substance that is subject to regulation
8 under section 721.

9 “(b) DELINEATION OF SINGLE PLACE OF BUSI-
10 NESS.—For purposes of this section and part 4 of sub-
11 chapter C of chapter VII, a place of business that is owned
12 or operated by a single person, and which is at 1 general
13 physical location consisting of 1 or more buildings all of
14 which are within 5 miles of each other, shall be considered
15 a single place of business.”.

16 (b) ARTICLES PRODUCED BY AN UNREGISTERED
17 PERSON.—Section 403 (21 U.S.C. 343) is amended by
18 adding at the end the following new subsection:

19 “(t) If it was manufactured, processed, or packaged
20 in any State by a person not duly registered under section
21 908.”.

22 **SEC. 728. AMENDMENTS RELATING TO FOOD ADDITIVE PE-**
23 **TITION REVIEW PROCESS.**

24 (a) ACTION ON PETITION.—Section 409(c) (21
25 U.S.C. 348(c)) is amended—

1 (1) in paragraph (1)(A)—

2 (A) by striking “(A) by order establish”
3 and inserting “(A) establish”; and

4 (B) by striking “petitioner of such order”
5 and inserting “petitioner of such regulation”;

6 (2) in paragraph (1)(B)—

7 (A) by striking “(B) by order deny” and
8 inserting “(B) deny”; and

9 (B) by striking “such order” and inserting
10 “such denial”;

11 (3) in paragraph (2)—

12 (A) by striking “The order required” and
13 inserting “The Secretary shall take the action
14 required”; and

15 (B) by striking “shall be issued”; and

16 (4) in paragraph (3) by striking “No such regu-
17 lation shall issue if” and inserting “No regulation
18 shall issue under paragraph (1) if”.

19 (b) REGULATION ISSUED ON SECRETARY’S INITIA-
20 TIVE.—Section 409(d) (21 U.S.C. 348(d)) is amended in
21 the second sentence by striking “by order”.

22 (c) PUBLICATION AND EFFECTIVE DATE OF OR-
23 DERS.—Section 409 (21 U.S.C. 348) is amended in sub-
24 section (e) to read as follows:

1 “(e) Any regulation issued under subsection (c) or (d)
2 shall be published and shall be effective upon publica-
3 tion.”.

4 (d) JUDICIAL REVIEW.—Section 409(f) (21 U.S.C.
5 348(f)) is amended read as follows:

6 “(f)(1) Any person adversely affected by an action
7 by the Secretary under subsection (c) or (d), including any
8 amendment or repeal of a regulation issued under this sec-
9 tion, may obtain judicial review of such action by filing
10 in the United States Court of Appeals for the circuit in
11 which such person resides or has his principal place of
12 business, or in the United States Court of Appeals for the
13 District of Columbia, within 60 days of such action, a peti-
14 tion requesting that the regulation be set aside in whole
15 or in part.

16 “(2) The court, on such judicial review, shall not sus-
17 tain the Secretary’s action if such action was not based
18 upon a fair evaluation of the entire record before the Sec-
19 retary.”.

20 (e) FINALITY OF COURT ORDER.—Section 409(g)
21 (21 U.S.C. 348(g)) is amended by striking paragraphs (1)
22 through (4) and by striking the paragraph designation
23 “(5)”.

1 (f) ACCESS TO OUTSIDE EXPERTS DURING REVIEW
2 PROCESS.—Section 409 (21 U.S.C. 348) is amended by
3 adding at the end the following new subsection:

4 “(k) ACCESS TO OUTSIDE EXPERTS DURING REVIEW
5 PROCESS.—Notwithstanding the Federal Advisory Com-
6 mittee Act (5 U.S.C. App.), the Secretary may consult
7 with, or seek advice from, a person who is not a full-time
8 officer or employee of the Federal Government, either as
9 an individual or as part of a group of such individuals,
10 for the purpose of obtaining expert scientific review of
11 data or other information submitted to the Secretary
12 under this section, if the Secretary determines that the
13 expertise provided by such individual or group of individ-
14 uals would contribute to the quality of the scientific review
15 of such submission or to the timeliness of such review and
16 such expertise is not otherwise available within the Food
17 and Drug Administration. The reviews, opinions, and con-
18 clusions of individuals obtained under the authority of this
19 subsection shall be reduced to written form and place in
20 the relevant administrative file.”.

21 **SEC. 728A. AMENDMENTS RELATING TO COLOR ADDITIVE**
22 **PETITION REVIEW PROCESS.**

23 (a) DETERMINATION OF SAFETY OF COLOR ADDI-
24 TIVES.—Section 721(b)(5) (21 U.S.C. 379e(b)(5)) is
25 amended by striking subparagraphs (C) and (D).

1 (b) PROCEDURE FOR ISSUANCE, AMENDMENT, OR
2 REPEAL OF REGULATIONS.—Subsection (d) of section
3 721 (21 U.S.C. 379e(d)) is amended to read as follows:

4 “Procedure for Issuance, Amendment, or Repeal of
5 Regulations

6 “(d)(1) The issuance, amendment, or repeal of regu-
7 lations under subsection (b) may be commenced by a pro-
8 posal made (A) by the Secretary on the Secretary’s own
9 initiative, or (B) by petition of any interested person,
10 showing reasonable grounds therefor, submitted to the
11 Secretary. Where an action is commenced by the submis-
12 sion of a petition, the Secretary shall, within 30 days of
13 its filing by the Secretary, publish notice of such petition,
14 describing in general terms the action proposed by the pe-
15 tition. The Secretary shall act upon such petition within
16 the time period set out in section 409(c)(2) by establishing
17 a regulation under subsection (b) or by denying such peti-
18 tion. The Secretary shall notify the petitioner of the action
19 taken on the petition and the reasons for such action.

20 “(2) Any regulation issued under this subsection shall
21 be published and shall be effective upon publication.

22 “(3)(A) Any person adversely affected by an action
23 by the Secretary under this subsection, including any
24 amendment or repeal of a regulation issued under this sec-
25 tion, may obtain judicial review of such action by filing

1 in the United States Court of Appeals for the circuit in
2 which such person resides or has his or her principal place
3 of business, or in the United States Court of Appeals for
4 the District of Columbia, within 60 days of such action,
5 a petition requesting that the regulation be set aside in
6 whole or in part.

7 “(B) The court, on such judicial review, shall not sus-
8 tain the Secretary’s action if such action was not based
9 upon a fair evaluation of the entire record before the Sec-
10 retary.

11 “(4) The judgment of the court affirming or setting
12 aside, in whole or in part, any order under paragraph (3)
13 shall be final, subject to review by the Supreme Court of
14 the United States upon certiorari or certification as pro-
15 vided in section 1254 of title 28 of the United States Code.
16 The commencement of proceedings under this section shall
17 not, unless specifically ordered by the court to the con-
18 trary, operate as a stay of an order.”.

19 (c) FEES.—Section 721(e) (21 U.S.C. 379e(e)) is
20 amended by striking “admitting to listing and”.

21 (d) ACCESS TO OUTSIDE EXPERTS DURING REVIEW
22 PROCESS.—Section 721 (21 U.S.C. 379e) is amended by
23 adding at the end the following new subsection:

1 “Access to Outside Experts During Review Process

2 “(g) Notwithstanding the Federal Advisory Com-
3 mittee Act (5 U.S.C. App.), the Secretary may consult
4 with, or seek advice from, a person who is not a full-time
5 officer or employee of the Federal Government, either as
6 an individual or as part of a group of such individuals,
7 for the purpose of obtaining expert scientific review of
8 data or other information submitted to the Secretary
9 under this section, if the Secretary determines that the
10 expertise provided by such individual or group of individ-
11 uals would contribute to the quality of the scientific review
12 of such submission or to the timeliness of such review and
13 such expertise is not otherwise available within the Food
14 and Drug Administration. The reviews, opinions, and con-
15 clusions of individuals obtained under the authority of this
16 subsection shall be reduced to written form and placed in
17 the relevant administrative file.”.

18 **Subpart C—Food Contact Substance Notification**

19 **Fees**

20 **SEC. 729. SHORT TITLE.**

21 This subpart may be cited as the “Food Contact Sub-
22 stance Notification Fee Act of 1999”.

1 **SEC. 729A. FEES RELATING TO FOOD CONTACT SUBSTANCE**
2 **NOTIFICATIONS.**

3 Chapter VII (21 U.S.C. 371 et seq.) is further
4 amended by adding at the end of subchapter C the fol-
5 lowing new part:

6 **“PART 5—FEES RELATING TO NOTIFICATIONS**
7 **FOR FOOD CONTACT SUBSTANCES**

8 **“SEC. 754. AUTHORITY TO ASSESS AND USE FEES.**

9 “(a) DEFINITIONS.—For purposes of this part, the
10 terms used in this subsection have the following meanings:

11 “(1) FOOD CONTACT SUBSTANCE.—The term
12 ‘food contact substance’ has the meaning given that
13 term in section 409(h)(6).

14 “(2) NOTIFICATION.—The term ‘notification’
15 means a notification submitted pursuant to section
16 409(h).

17 “(3) NOTIFICATION REVIEW ACTIVITIES.—The
18 term ‘notification review activities’ means the fol-
19 lowing activities of the Secretary with respect to the
20 review of notifications:

21 “(A) The activities necessary for the re-
22 view of notifications and related activities.

23 “(B) The issuance of written correspond-
24 ence or other documents which set forth the de-
25 ficiencies in such notifications and, where ap-

1 appropriate, the actions necessary to resolve such
2 deficiencies.

3 “(C) The development of guidance and pol-
4 icy documents regarding the process for the re-
5 view of notifications.

6 “(D) The development of test methods and
7 standards in connection with the review of noti-
8 fications and related activities.

9 “(E) The provision of technical assistance
10 to prospective notifiers in connection with the
11 submission of a food contact substance notifica-
12 tion.

13 “(F) Monitoring of studies and data per-
14 taining to the safety of substances described in
15 paragraphs (1) through (4) of section 908.

16 “(4) COSTS OF RESOURCES ALLOCATED FOR
17 NOTIFICATION REVIEW ACTIVITIES.—The term
18 ‘costs of resources allocated for notification review
19 activities’ means the expenses incurred in connection
20 with the process for the review of notifications and
21 related activities for—

22 “(A) officers and employees of the Food
23 and Drug Administration, employees under con-
24 tract with the Food and Drug Administration,

1 advisory committees, and costs related to such
2 officers, employees, and committees;

3 “(B) management of information, and the
4 acquisition, maintenance, and repair of com-
5 puter resources;

6 “(C) leasing, maintenance, renovation, and
7 repair of facilities and acquisition, maintenance,
8 and repair of fixtures, furniture, scientific
9 equipment, and other necessary materials, serv-
10 ices, and supplies; and

11 “(D) collecting fees under this section and
12 accounting for resources allocated for the re-
13 view of notifications and related activities.

14 “(5) TIER I, TIER II, TIER III NOTIFICATIONS;
15 REGULATORY MODIFICATION.—

16 “(A) TIER I NOTIFICATION.—The term
17 ‘tier I notification’ means a notification for—

18 “(i) a use that results in an incre-
19 mental increase in dietary exposure to the
20 food contract substance equal to or less
21 than 0.5 parts per billion; or

22 “(ii) a new use of a substance that
23 does not require review of additional safety
24 data.

1 “(B) TIER II NOTIFICATION.—The term
2 ‘tier II notification’ means a notification for a
3 use or uses—

4 “(i) that results in an incremental in-
5 crease in estimated dietary exposure to the
6 food contact substances of less than or
7 equal to 50 parts per billion, but greater
8 than 0.5 parts per billion in the diet; or

9 “(ii) that does not require review of
10 more than 1 animal toxicity study with a
11 duration of 90 days or more.

12 “(C) TIER III NOTIFICATION.—The term
13 ‘tier III notification’ means a notification—

14 “(i) not described in subparagraph
15 (A) or (B); or

16 “(ii) for a food contact substance that
17 is a new food contact material.

18 “(D) REGULATORY MODIFICATION.—The
19 Secretary may by regulation revise the defini-
20 tions in subparagraphs (A) through (C).

21 “(6) ADJUSTMENT FACTOR.—The term ‘adjust-
22 ment factor’ has the meaning given that term in sec-
23 tion 735(8), except that references therein—

24 “(A) to ‘1997’ shall be read to mean
25 ‘1999’; and

1 “(B) to ‘the 105th Congress’ shall be read
2 to mean ‘the 106th Congress’.

3 “(b) ASSESSMENT OF FEES.—Subject to the remain-
4 ing provisions of this section, each person that submits
5 a notification under section 409(h) on or after October
6 1, 1999, shall be subject to fees established in accordance
7 with this part.

8 “(c) FEE AMOUNTS.—

9 “(1) FOR FISCAL YEAR 2000.—The fee under
10 this part for a notification submitted in fiscal year
11 2000 shall be—

12 “(A) \$5,000 for each tier I notification;

13 “(B) \$20,000 for each tier II notification;

14 and

15 “(C) \$40,000 for each tier III notification.

16 “(2) INFLATION ADJUSTMENT FOR SUBSE-
17 QUENT YEARS.—The fees established in paragraph
18 (1) shall be adjusted by the Secretary by notice,
19 published in the Federal Register, for fiscal year
20 2001 and each succeeding fiscal year to reflect an
21 inflation adjustment determined as described in sec-
22 tion 736(c)(1), except that the reference therein to
23 ‘fiscal year 1997’ shall be considered to mean ‘fiscal
24 year 2000’.

1 “(d) PAYMENT DEADLINE; EFFECT OF FAILURE TO
2 PAY FEES.—Fees assessed under this section shall be due
3 and payable at the time the notification is submitted to
4 the Secretary. A notification submitted by a person sub-
5 ject to fees assessed under this section shall be considered
6 incomplete, shall not be accepted by the Secretary, and
7 shall not be considered effective under section
8 409(a)(3)(B) until 120 days after all fees owed by such
9 persons have been paid.

10 “(e) GENERAL CONDITIONS APPLICABLE TO FEE AS-
11 SESSMENT AUTHORITY.—

12 “(1) LIMITATION.—Fees may not be assessed
13 under this section for a fiscal year beginning after
14 fiscal year 2000 unless appropriations for such fiscal
15 year for salaries and expenses of the Food and Drug
16 Administration (excluding amounts appropriated for
17 fees under this subchapter), and for that portion of
18 such appropriation designated for the Center for
19 Food Safety and Applied Nutrition, equal or exceed
20 such appropriations for fiscal year 1999 multiplied
21 by the adjustment factor.

22 “(2) DELAYED ASSESSMENT.—If the Secretary
23 does not assess fees under this part during any por-
24 tion of a fiscal year because of paragraph (1) and
25 if at a later date in such fiscal year the Secretary

1 may assess such fees, the Secretary may assess and
2 collect such fees, without modification in the rate,
3 for activities related to the regulatory purpose for
4 which they were collected any time in such fiscal
5 year notwithstanding the provisions of subsection (d)
6 relating to the date fees are to be paid.

7 “(f) CREDITING AND AVAILABILITY OF FEES.—Fees
8 authorized under this section shall be available for obliga-
9 tion only to the extent and in the amounts provided in
10 advance in appropriations Acts. Such fees are authorized
11 to be appropriated to remain available until expended sole-
12 ly to support the notification review activities set forth in
13 subsection (a)(3). Such fees shall be credited to the appro-
14 priation account for salaries and expenses of the Food and
15 Drug Administration. Any amount of fees collected for a
16 fiscal year under this subsection that exceeds the amount
17 of fees made available in appropriations Acts for such fis-
18 cal year may be credited to the appropriation account for
19 salaries and expenses of the Food and Drug Administra-
20 tion. Excess fees may be retained but are not available
21 for obligation until appropriated. Such sums as may be
22 necessary may be transferred from the Food and Drug
23 Administration salaries and expenses appropriation ac-
24 count without fiscal year limitation to such appropriation

1 account for salaries and expenses with such fiscal year
2 limitation.

3 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated for fees under this sec-
5 tion \$6,000,000 for fiscal year 2000 and each succeeding
6 fiscal year, as adjusted to reflect the percentage adjust-
7 ment of fees authorized under subsection (b).

8 “(h) COLLECTION OF UNPAID FEES.—In any case
9 where the Secretary does not receive payment of a fee as-
10 sessed under this section within 30 days after it is due,
11 such fee shall be treated as a claim of the United States
12 Government subject to subchapter II of chapter 37 of title
13 31, United States Code.”.

14 **SEC. 729B. AMENDMENT RELATING TO FOOD CONTACT**
15 **SUBSTANCE NOTIFICATION PROCESS.**

16 Section 409(h)(5)(A)(iv) (21 U.S.C.
17 348(h)(5)(A)(iv)) is amended to read as follows:

18 “(iv) For fiscal year 2000 and subse-
19 quent fiscal years, the applicable amount
20 under this clause is the amount specified
21 in section 754(g).”.

1 **PART III—HEALTH CARE FINANCING**

2 **ADMINISTRATION USER FEES**

3 **SEC. 731. REFERENCES IN PART.**

4 Except as otherwise provided in this part, references
5 to a section or other provision of law are references to
6 the Social Security Act, and amendments made by this
7 part to a section or other provision of law are amendments
8 to such section or other provision of that Act.

9 **SEC. 732. INCREASE IN MEDICARE+CHOICE FEE FOR EN-**
10 **ROLLMENT-RELATED COSTS.**

11 Section 1857(e)(2)(D)(ii) (42 U.S.C. 1395w-
12 27(e)(2)(D)(ii)) is amended—

13 (1) by adding “and” at the end of subclause
14 (I);

15 (2) in subclause (II)—

16 (A) by inserting “and each subsequent fis-
17 cal year” after “in fiscal year 1999”; and

18 (B) by striking “; and” and inserting a pe-
19 riod; and

20 (3) by striking subclause (III).

21 **SEC. 733. COLLECTION OF FEES FROM MEDICARE+CHOICE**
22 **ORGANIZATIONS FOR CONTRACT INITIATION**
23 **AND RENEWAL.**

24 Section 1857 (42 U.S.C. 1395w-27) is amended by
25 adding at the end the following new subsection:

1 “(i) FEES FOR CONTRACT ISSUANCE AND RENEWAL
2 AND ONGOING MONITORING.—

3 “(1) AUTHORITY TO IMPOSE FEES.—The Sec-
4 retary shall impose—

5 “(A) fees for initial Medicare+Choice con-
6 tracts under this part; and

7 “(B) annual fees for renewal of such con-
8 tracts and monitoring of the ongoing operations
9 of Medicare+Choice organizations.

10 “(2) ASSESSMENT OF FEES.—

11 “(A) TYPES OF FEES.—

12 “(i) INITIATION FEES.—Fee amounts
13 assessed against a member of a class of or-
14 ganizations pursuant to paragraph (1)(A)
15 shall not exceed the Secretary’s reasonable
16 estimate of the average cost of initiating a
17 Medicare+Choice contract for an organiza-
18 tion in such class.

19 “(ii) RENEWAL AND MONITORING
20 FEES.—Fee amounts assessed pursuant to
21 paragraph (1)(B) against members of a
22 class of organizations shall not exceed the
23 amount which the Secretary reasonably es-
24 timates will generate total revenues suffi-
25 cient to cover total annual costs for renew-

1 ing contracts and performing ongoing mon-
2 itoring with respect to such class.

3 “(B) REDUCTION OR WAIVER OF FEES.—

4 The Secretary may reduce or waive the fees
5 under this subsection in exceptional cir-
6 cumstances which the Secretary determines to
7 be in the public interest.

8 “(3) COLLECTION AND CREDITING OF FEES.—

9 “(A) INITIAL FEES.—Fees assessed
10 against an organization pursuant to paragraph
11 (1)(A) shall be payable upon submission of the
12 application to participate in the program under
13 this title as a Medicare+Choice organization
14 (and shall apply whether or not the Secretary
15 approves such application) and shall be credited
16 to the Health Care Financing Administration
17 Program Management Account.

18 “(B) RENEWAL AND MONITORING FEES.—

19 Fees assessed against an organization pursuant
20 to paragraph (1)(B) shall be payable annually
21 and may be deducted from amounts otherwise
22 payable from a Trust Fund under this title to
23 such organization. Such fees shall be credited to
24 the Health Care Financing Administration Pro-
25 gram Management Account.

1 “(C) OFFSET.—Any amount of fees col-
2 lected in a fiscal year under this subsection that
3 exceeds the amount of such fees available for
4 expenditure in such fiscal year, as specified in
5 appropriation Acts, shall be credited to the
6 Health Care Financing Administration Pro-
7 gram Management Account, and shall be avail-
8 able for obligation in subsequent fiscal years to
9 the extent provided in subsequent appropriation
10 Acts.

11 “(4) AVAILABILITY OF FEES.—Fees authorized
12 under this subsection shall be available for obligation
13 only to the extent and in the amount provided in ad-
14 vance in appropriation Acts. Such fees are author-
15 ized to be appropriated to remain available until ex-
16 pended for the costs of the activities for which they
17 were assessed.”.

18 **SEC. 734. FEES FOR SURVEY AND CERTIFICATION.**

19 (a) IN GENERAL.—Section 1864(e) (42 U.S.C.
20 1395aa(e)) is amended to read as follows:

21 “(e) FEES FOR CONDUCTING CERTIFICATION SUR-
22 VEYS.—

23 “(1) AUTHORITY TO IMPOSE FEES.—Except as
24 provided in paragraph (6), the Secretary shall im-

1 pose, or require States as a condition of agreements
2 under this section to impose—

3 “(A) fees for surveys for the purpose of
4 making initial determinations as to whether en-
5 tities meet requirements under this title; and

6 “(B) annual fees to cover the costs of peri-
7 odic surveys to determine whether entities par-
8 ticipating in the program under this title con-
9 tinue to meet such requirements.

10 “(2) ASSESSMENT OF FEES.—

11 “(A) TYPES OF FEES.—

12 “(i) FEES FOR INITIAL SURVEYS.—
13 Fee amounts assessed pursuant to para-
14 graph (1)(A) against an entity in a class in
15 a State shall not exceed the estimated av-
16 erage cost of an initial survey and deter-
17 mination for an entity in such class and
18 State.

19 “(ii) FEES FOR RECERTIFICATION
20 SURVEYS.—

21 “(I) IN GENERAL.—Fee amounts
22 assessed pursuant to paragraph
23 (1)(B) against entities in a class in a
24 State shall not exceed the amount
25 which the Secretary reasonably esti-

1 mates will generate total revenues suf-
2 ficient to cover the applicable percent-
3 age specified in subclause (II) of total
4 annual costs for such surveys and de-
5 terminations with respect to such
6 class and State.

7 “(II) APPLICABLE PERCENT-
8 AGES.—For purposes of subclause (I),
9 the applicable percentage is—

10 “(aa) 33 percent for fiscal
11 year 2000;

12 “(bb) 66 percent for fiscal
13 year 2001; and

14 “(cc) 100 percent for fiscal
15 year 2002 and each succeeding
16 fiscal year.

17 “(B) REDUCTION OR WAIVER OF FEES.—

18 The Secretary may reduce or waive the fees
19 under this subsection in exceptional cir-
20 cumstances which the Secretary determines to
21 be in the public interest.

22 “(3) COLLECTION AND CREDITING OF FEES.—

23 “(A) FEES FOR INITIAL SURVEYS.—

24 “(i) COLLECTION OF FEES.—Fees as-
25 sessed against an entity in a State pursu-

1 ant to paragraph (1)(A) shall be payable
2 at the time of the initial survey to the Sec-
3 retary (or, in the case of surveys per-
4 formed by a State agency, to such agency).

5 “(ii) REMITTANCE OF FEE AMOUNT
6 TO SECRETARY WHERE STATE COLLECTS
7 FEES.—In the event a State agency col-
8 lects a fee pursuant to clause (i), such
9 agency shall remit to the Secretary an
10 amount equal to the Secretary’s share of
11 the cost of the activities described in para-
12 graph (1)(A).

13 “(iii) CREDITING OF FEES.—Fees
14 paid to the Secretary pursuant to clause (i)
15 or remitted to the Secretary pursuant to
16 clause (ii) shall be credited to the Health
17 Care Financing Administration Program
18 Management Account.

19 “(B) FEES FOR RECERTIFICATION SUR-
20 VEYS.—

21 “(i) COLLECTION OF FEES.—Fees as-
22 sessed against an entity pursuant to para-
23 graph (1)(B) shall be payable annually and
24 may be deducted from amounts otherwise

1 payable from a Trust Fund under this title
2 to such entity.

3 “(ii) REIMBURSEMENT OF STATE
4 AGENCY COSTS.—Of amounts collected
5 pursuant to clause (i), an amount equal to
6 the State’s share of the cost of activities
7 described in paragraph (1)(B) shall be
8 transferred to the appropriate State agen-
9 cy.

10 “(iii) REIMBURSEMENT OF SEC-
11 RETARY’S COSTS.—The balance of the
12 amount collected pursuant to clause (i)
13 that is not paid to a State agency pursuant
14 to clause (ii) shall be credited to the
15 Health Care Financing Administration
16 Program Management Account.

17 “(C) OFFSET.—Any amount of fees col-
18 lected in a fiscal year under this subsection that
19 exceeds the amount of such fees available for
20 expenditure in such fiscal year, as specified in
21 appropriation Acts, shall be credited to the
22 Health Care Financing Administration Pro-
23 gram Management Account, and shall be avail-
24 able for obligation in subsequent fiscal years to

1 the extent provided in subsequent appropriation
2 Acts.

3 “(4) AVAILABILITY OF FEES.—Fees authorized
4 under this subsection shall be available for obligation
5 only to the extent and in the amount provided in ad-
6 vance in appropriation Acts. Such fees are author-
7 ized to be appropriated to remain available until ex-
8 pended for the costs of the activities for which they
9 were assessed.

10 “(5) TREATMENT OF FEES FOR PURPOSES OF
11 COST REPORTS.—An entity may not include a fee as-
12 sessed pursuant to this subsection as an allowable
13 item on a cost report under this title or title XIX.

14 “(6) CERTAIN ENTITIES NOT SUBJECT TO
15 FEE.—The Secretary shall not impose fees under
16 this subsection against entities subject to the re-
17 quirements of the Clinical Laboratory Improvement
18 Amendments of 1988 (Public Law 100-578, 42
19 U.S.C. 263a).”.

20 (b) SIMPLER AND MORE FLEXIBLE LEGISLATIVE
21 AUTHORITY.—

22 (1) IN GENERAL.—The first two sentences of
23 section 1864(a) (42 U.S.C. 1395aa(a)) are amended
24 to read as follows: “The Secretary may make an
25 agreement with a State under which the services of

1 a State agency (or local agencies) will be utilized by
2 the Secretary in determining whether entities that
3 furnish items or services for which payment may be
4 made under this title meet requirements under this
5 title. To the extent that the Secretary finds it appro-
6 priate, an entity that a State (or local) agency finds
7 to have met requirements under this title may be
8 treated by the Secretary as having met those re-
9 quirements.”.

10 (2) POSTING OF FINDINGS.—The fifth sentence
11 of such section is amended to read as follows:
12 “Within 90 days after the completion of a survey of
13 an entity under the first sentence of this subsection,
14 the Secretary shall make public in readily available
15 form and place, and require (in the case of skilled
16 nursing facilities) the posting in a place readily ac-
17 cessible to patients (and patients’ representatives),
18 the pertinent findings of the survey as to the compli-
19 ance of the entity with statutory requirements under
20 this title and with the major additional conditions
21 that the Secretary finds necessary in the interest of
22 health and safety of individuals who are furnished
23 items or services by the entity.”.

24 (3) CLERICAL AMENDMENT.—The heading of
25 section 1864 (42 U.S.C. 1395aa) is amended by

1 striking “WITH CONDITIONS OF PARTICIPATION” and
2 inserting “AND OTHER ENTITIES WITH REQUIRE-
3 MENTS UNDER THIS TITLE”.

4 **SEC. 735. FEES FOR REGISTRATION OF INDIVIDUALS AND**
5 **ENTITIES PROVIDING HEALTH CARE ITEMS**
6 **OR SERVICES UNDER MEDICARE.**

7 (a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc)
8 is amended by adding at the end the following new sub-
9 section:

10 “(j) REGISTRATION PROCEDURES AND FEES.—

11 “(1) REGISTRATION.—The Secretary shall es-
12 tablish a procedure for initial registration and peri-
13 odic renewal of registration of individuals and enti-
14 ties that furnish items or services for which payment
15 may be made under this title and that are not other-
16 wise subject to provisions of this title providing for
17 such procedures.

18 “(2) FEES.—

19 “(A) AUTHORITY TO IMPOSE FEES.—The
20 Secretary shall impose—

21 “(i) fees for initial agreements with
22 providers of services and initial registra-
23 tions of other entities and individuals that
24 furnish items or services for which pay-
25 ment may be made under this title, and

1 “(ii) annual fees to cover the costs of
2 renewals of agreements and registrations
3 of such individuals and entities.

4 “(B) ASSESSMENT OF FEES.—

5 “(i) TYPES OF FEES.—

6 “(I) INITIAL FEES.—Fee
7 amounts assessed pursuant to sub-
8 paragraph (A)(i) against a member of
9 a class of individuals or entities shall
10 not exceed the Secretary’s reasonable
11 estimate of the average cost of initi-
12 ating an agreement or performing an
13 initial registration for an individual or
14 entity in such class.

15 “(II) RENEWAL FEES.—Fee
16 amounts assessed pursuant to sub-
17 paragraph (A)(ii) against members of
18 a class of individuals or entities shall
19 not exceed the amount which the Sec-
20 retary reasonably estimates will gen-
21 erate total revenues sufficient to cover
22 total annual costs of performing such
23 renewals with respect to such class.

24 “(ii) REDUCTION OR WAIVER OF
25 FEES.—The Secretary may reduce or waive

1 the fees under this paragraph in excep-
2 tional circumstances which the Secretary
3 determines to be in the public interest.

4 “(C) COLLECTION AND CREDITING OF
5 FEES.—

6 “(i) INITIAL FEES.—Fees assessed
7 pursuant to subparagraph (A)(i) against
8 an individual or entity shall be payable
9 upon application for billing privileges
10 under the program under this title (and
11 shall apply whether or not the Secretary
12 approves such application) and shall be
13 credited to the Health Care Financing Ad-
14 ministration Program Management Ac-
15 count.

16 “(ii) RENEWAL FEES.—Fees assessed
17 pursuant to subparagraph (A)(ii) against
18 an individual or entity shall be payable an-
19 nually and may be deducted from amounts
20 otherwise payable from a Trust Fund
21 under this title to such individual or entity.
22 Such fees shall be credited to the Health
23 Care Financing Administration Program
24 Management Account.

1 “(iii) OFFSET.—Any amount of fees
2 collected in a fiscal year under this para-
3 graph that exceeds the amount of such fees
4 available for expenditure in such fiscal
5 year, as specified in appropriation Acts,
6 shall be credited to the Health Care Fi-
7 nancing Administration Program Manage-
8 ment Account, and shall be available for
9 obligation in subsequent fiscal years to the
10 extent provided in subsequent appropria-
11 tion Acts.

12 “(D) AVAILABILITY OF FEES.—Fees au-
13 thorized under this paragraph shall be available
14 for obligation only to the extent and in the
15 amount provided in advance in appropriation
16 Acts. Such fees are authorized to be appro-
17 priated to remain available until expended for
18 necessary expenses related to initiating and re-
19 newing such agreements and registrations, in-
20 cluding costs of establishing and maintaining
21 procedures and records systems; processing ap-
22 plications; background investigations; renewal
23 of billing privileges; and reverification of eligi-
24 bility.

1 “(E) TREATMENT OF FEES FOR PURPOSES
2 OF COST REPORTS.—An entity may not include
3 a fee assessed pursuant to this paragraph as an
4 allowable item on a cost report under this title
5 or title XIX.”; and

6 (b) CLERICAL AMENDMENT.—The heading of section
7 1866 (42 U.S.C. 1395cc) is amended by inserting “AND
8 REGISTRATION OF OTHER PERSONS FURNISHING SERV-
9 ICES” after “PROVIDERS OF SERVICES”.

10 **SEC. 736. FEES FOR PROCESSING CLAIMS.**

11 (a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et
12 seq.) is amended by adding at the end the following new
13 section:

14 “FEES FOR PROCESSING CLAIMS

15 “SEC. 1897. (a) AUTHORITY TO IMPOSE FEES.—

16 “(1) IN GENERAL.—Subject to subsection (b),
17 each claim described in paragraph (2) submitted by
18 an individual or entity furnishing items or services
19 for which payment may be made under this title is
20 subject to a processing fee of \$1.

21 “(2) CLAIMS SUBJECT TO FEE.—A claim under
22 part A or B of this title is subject to the fee speci-
23 fied in paragraph (1) if it—

24 “(A) duplicates, in whole or in part, an-
25 other claim submitted by the same individual or
26 entity;

1 “(B) is a claim that cannot be processed
2 and must, in accordance with the Secretary’s
3 instructions, be returned by the fiscal inter-
4 mediary or carrier to the individual or entity for
5 completion; or

6 “(C) is not submitted electronically by an
7 individual or entity or the authorized billing
8 agent of such individual or entity.

9 “(b) COLLECTION, CREDITING, AND AVAILABILITY
10 OF FEES.—

11 “(1) DEDUCTION FROM TRUST FUND.—The
12 Secretary shall deduct any fees assessed pursuant to
13 subsection (a) against an individual or entity from
14 amounts otherwise payable from a Trust Fund
15 under this title to such individual or entity, and
16 shall transfer the amount so deducted from such
17 Trust Fund to the Health Care Financing Adminis-
18 tration Program Management Account.

19 “(2) OFFSET.—Any amount of fees collected in
20 a fiscal year under this section that exceeds the
21 amount of such fees available for expenditure in
22 such fiscal year, as specified in appropriation Acts,
23 shall be credited to the Health Care Financing Ad-
24 ministration Program Management Account, and
25 shall be available for obligation in subsequent fiscal

1 years to the extent provided in subsequent appro-
2 priation Acts.

3 “(3) AVAILABILITY.—Fees authorized under
4 this subsection shall be available for obligation only
5 to the extent and in the amount provided in advance
6 in appropriation Acts. Such fees are authorized to be
7 appropriated to remain available until expended for
8 the costs of the activities for which they were as-
9 sessed.

10 “(c) WAIVER OF CERTAIN FEES.—The Secretary
11 may waive fees for claims described in subsection
12 (a)(2)(C) in cases of such compelling circumstances as the
13 Secretary may determine.

14 “(d) TREATMENT OF FEES FOR PURPOSES OF COST
15 REPORTS.—An entity may not include a fee assessed pur-
16 suant to this section as an allowable item on a cost report
17 under this title or title XIX.”

18 (b) CONFORMING AMENDMENT.—Section 1842(c)(4)
19 (42 U.S.C. 1395u(c)(4)) is amended by striking “Neither
20 a carrier” and inserting “Except as provided in section
21 1897, neither a carrier”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section are effective 180 days after the date of enact-
24 ment of this part.

1 **SEC. 737. REPEAL OF PROVISION RELATED TO SELECTION**
2 **OF REGIONAL LABORATORY CARRIERS.**

3 Section 4554(a) of the Balanced Budget Act of 1997
4 (42 U.S.C. 1395u note) is repealed.

5 **SEC. 738. AUTHORITY TO ISSUE INTERIM FINAL REGULA-**
6 **TIONS.**

7 The Secretary may issue any regulations needed to
8 implement amendments made by this subtitle as interim
9 final regulations.

10 **Subtitle H—Transportation**

11 **PART I—FEDERAL AVIATION ADMINISTRATION**

12 **COST-BASED USER FEES**

13 **SEC. 811. FEDERAL AVIATION ADMINISTRATION COST-**
14 **BASED USER FEES.**

15 (a) Chapter 453 of title 49, United States Code, is
16 amended by adding at the end the following:

17 **“§ 45305. Transitional fees for users of air traffic con-**
18 **trol services**

19 **“(a) AUTHORITY TO ESTABLISH FEES.—**

20 **“(1) IN GENERAL.—**The Administrator of the
21 Federal Aviation Administration shall establish a
22 schedule of new fees, and a collection process for
23 such fees, to be paid by operators described in para-
24 graph (4) for air traffic control services provided by
25 the the Administration.

1 “(2) DURATION OF EFFECT.—Fees established
2 under this section shall be effective until the Admin-
3 istrator adopts a permanent schedule of fees for air
4 traffic control services.

5 “(3) AMOUNT OF FEES.—Fees authorized
6 under this section shall reflect, based on cost ac-
7 counting principles, the full cost of providing air
8 traffic control services, including costs associated
9 with research, engineering, development, operation,
10 maintenance, and depreciation of air traffic control
11 facilities and infrastructure.

12 “(4) PERSONS SUBJECT TO FEES.—The fol-
13 lowing operators shall be subject to fees established
14 under this section:

15 “(A) Persons holding certificates under part
16 119 of title 14, Code of Federal Regulations.

17 “(B) Persons holding certificates to operate an
18 aircraft for compensation or hire under part 125 of
19 title 14, Code of Federal Regulations.

20 “(C) Foreign air carriers directly providing air
21 transportation.

22 “(b) ISSUANCE OF REGULATIONS.—

23 “(1) INTERIM FINAL RULE.—

24 “(A) PUBLICATION.—Not later than Sep-
25 tember 30, 1999, the Administrator shall pub-

1 lish in the Federal Register an interim final
2 rule establishing an initial schedule of fees au-
3 thorized under this section and describing the
4 collection process for such fees.

5 “(B) CONSULTATION.—Before publishing
6 a rule under subparagraph (A), the Adminis-
7 trator shall consult with interested operators
8 who may be subject to the rule.

9 “(2) FINAL RULE.—After the Administrator re-
10 ceives public comment on the interim final rule, the
11 Administrator shall issue a final rule as early as is
12 practicable.

13 “(c) DEPOSIT OF FEES.—Fees collected under this
14 section shall be deposited in the Airport and Airway Trust
15 Fund established under section 9502 of the Internal Rev-
16 enue Code of 1986 (26 U.S.C. 9502).

17 “(d) REDUCTION OF TAXES FOR FISCAL YEAR
18 2000.—If, prior to October 1, 1999, the sum of estimated
19 receipts from fees established under this section for fiscal
20 year 2000 and estimated receipts from excise taxes to be
21 credited to the Airport and Airway Trust Fund for fiscal
22 year 2000 is projected to exceed the budgetary require-
23 ments for the Federal Aviation Administration for fiscal
24 year 2001 as shown in the Budget of the United States
25 Government for Fiscal Year 2000, aviation excise taxes

1 that would otherwise be applicable shall be reduced in the
2 same manner as provided in section 45306.

3 “(e) AVAILABILITY OF FEES.—Fees authorized
4 under this section shall be available for obligation only to
5 the extent and in the amount provided in advance in ap-
6 propriations Acts. Such fees are authorized to be appro-
7 priated to remain available until expended.

8 **“SEC. 45306. ADJUSTMENT OF CERTAIN AVIATION EXCISE**
9 **TAXES.**

10 “(a) IN GENERAL.—On the date on which the Budg-
11 et of the United States Government is transmitted to Con-
12 gress in 2000, and on that date on each year thereafter,
13 if the sum of revenue from fees projected to be collected
14 under section 45305 and subchapter II of this title in the
15 upcoming fiscal year and amounts equivalent to excise
16 taxes projected to be credited to the Airport and Airway
17 Trust Fund in that fiscal year does not equal the budg-
18 etary requirements for the Federal Aviation Administra-
19 tion for the succeeding year, as shown in the Budget of
20 the United States Government for the upcoming fiscal
21 year, aviation excise taxes that would otherwise be im-
22 posed in the upcoming fiscal year shall be adjusted as fol-
23 lows:

24 “(1) PASSENGER TICKET TAX.—The rate of tax
25 imposed under section 4261(a) of the Internal Rev-

1 enue Code of 1986 (26 U.S.C. 4261(a)) is adjusted
2 pursuant to the calculation made for each fiscal year
3 under subsection (b) of this section.

4 “(2) INTERNATIONAL ARRIVALS AND DEPARTURES.—The rate of tax imposed under section
5 4261(c) of the Internal Revenue Code of 1986 (26
6 U.S.C. 4261(c)) is adjusted pursuant to the calcula-
7 tion made for each fiscal year under subsection (b)
8 of this section.

9
10 “(3) AIR CARGO.—The rate of tax imposed
11 under section 4271 of the Internal Revenue Code of
12 1986 (26 U.S.C. 4271) is adjusted pursuant to the
13 calculation made for each fiscal year under sub-
14 section (b) of this section.

15 “(4) DOMESTIC PASSENGER FLIGHT SEG-
16 MENTS.—The rate of tax imposed under section
17 4261(b) of the Internal Revenue Code of 1986 (26
18 U.S.C. 4261(b)) is adjusted pursuant to the calcula-
19 tion made for each fiscal year under subsection (b)
20 of this section.

21 “(5) PASSENGER TICKET TAX FOR RURAL AIR-
22 PORTS.—The rate of tax imposed under section
23 4261(e)(1) of the Internal Revenue Code of 1986
24 (26 U.S.C. 4261(e)(1)) is adjusted pursuant to the

1 calculation made for each fiscal year under sub-
2 section (b) of this section.

3 “(6) FREQUENT FLYER TAX.—The rate of tax
4 imposed under section 4261(e)(3) of the Internal
5 Revenue Code of 1986 (26 U.S.C. 4261(e)(3)) is ad-
6 justed pursuant to the calculation made for each fis-
7 cal year under subsection (b) of this section.

8 “(7) COMMERCIAL AVIATION FUEL TAX.—The
9 rate of tax not exempted under section 4092(b)(2)
10 of the Internal Revenue Code of 1986 (26 U.S.C.
11 4092(b)(2)) is adjusted pursuant to the calculation
12 made for each fiscal year under subsection (b) of
13 this section.

14 “(b) ADJUSTMENTS BY THE SECRETARY OF THE
15 TREASURY.—On the date on which the Budget of the
16 United States Government is transmitted to Congress in
17 2000, and on that date in each year thereafter, the Sec-
18 retary of the Treasury, in consultation with the Secretary
19 of Transportation, shall calculate a percent figure for the
20 upcoming fiscal year as follows:

21 “(1) ESTIMATE OF BUDGETARY REQUIRE-
22 MENTS.—The Secretary of the Treasury shall esti-
23 mate the budgetary requirements for the Federal
24 Aviation Administration for the upcoming fiscal year

1 based on the budget of the United States Govern-
2 ment.

3 “(2) ESTIMATE OF FEES.—The Secretary of
4 the Treasury shall estimate the amount of user fees
5 imposed under section 45305 to be collected for the
6 upcoming fiscal year.

7 “(3) ESTIMATE OF TAX REVENUES.—The Sec-
8 retary of the Treasury shall estimate the receipts in
9 the upcoming fiscal year from taxes that, but for
10 this section, would be imposed under sections
11 4261(a) (relating to the passenger tickets), 4261(c)
12 (relating to international arrivals and departures),
13 4271 (relating to transportation of property),
14 4261(b) (domestic passenger flight segments),
15 4261(e)(1) (relating to passenger tickets for rural
16 airports), and 4261(e)(3) (relating to frequent flyer
17 programs) of the Internal Revenue Code of 1986.

18 “(4) CALCULATION OF ACTUAL RESOURCES.—
19 On the date on which the Budget of the United
20 States Government is transmitted to Congress in
21 2002, and on that date in each year thereafter, the
22 Secretary of Treasury shall calculate the amount
23 that actual budget resources, in the fiscal year that
24 is one year earlier than the current year, and user
25 fee and tax receipts credited to the Airport and Air-

1 way Trust Fund, in the fiscal year that is two years
2 earlier than the current year, varied from the
3 amounts projected in the calculation previously made
4 for the fiscal year that is two years earlier than the
5 current year under this subsection or section
6 45305(d). The resulting positive or negative amount
7 is added to the estimated amount calculated under
8 paragraph (3).

9 “(5) CALCULATION OF ADJUSTMENTS.—The
10 Secretary of the Treasury shall subtract the amount
11 calculated under paragraph (2) from the amount
12 calculated under paragraph (1) and divide that re-
13 sult by the amount calculated under paragraph (3),
14 after any adjustment under paragraph (4). If the re-
15 sult is less than 1, subtract the resulting percentage
16 from 100 percent. The percent that taxes are to be
17 reduced for the upcoming fiscal year under sub-
18 section (a) is the result of this calculation. If the re-
19 sult is greater than 1, subtract 1 from the result.
20 The percent that taxes are to be increased for the
21 upcoming fiscal year under subsection (a) is the re-
22 sult of this calculation.”.

23 (b) CONFORMING AMENDMENT.—The analysis for
24 chapter 453 is amended by inserting at the end the fol-
25 lowing:

“45305. Transitional fee for users of air traffic control services.

“45306. Adjustment of certain aviation excise taxes.”.

1 **PART II—COAST GUARD VESSEL NAVIGATION**

2 **ASSISTANCE FEE**

3 **SEC. 821. COAST GUARD VESSEL NAVIGATIONAL ASSIST-**
4 **ANCE FEE.**

5 (a) IN GENERAL.—Section 2110 of title 46, United
6 States Code, is amended—

7 (1) by amending subsection (b) to read as fol-
8 lows:

9 “(b)(1) Commencing in fiscal year 2000, the Sec-
10 retary may establish, adjust, assess, and collect annual
11 fees or charges to recover a portion of the costs of naviga-
12 tion services provided to commercial vessels by the Coast
13 Guard. The fees or charges shall be collected from the
14 owner or operator of each commercial vessel that is oper-
15 ated on the navigable waters of the United States.

16 “(2) Fees authorized under this subsection shall be
17 available for obligation only to the extent and in the
18 amount provided in advance in appropriation Acts.

19 “(3) From amounts collected pursuant to paragraph
20 (1), there are authorized to be appropriated to the Sec-
21 retary of the department in which the Coast Guard is op-
22 erating, to remain available until expended and ascribed
23 to the Coast Guard, such sums as may be necessary for
24 fiscal year 2000 and for each fiscal year thereafter.

1 “(4)(A) Fees authorized under this subsection may
2 vary or be allocated to reflect the costs of navigation serv-
3 ices provided to different classifications of commercial ves-
4 sels or vessel owners or operators, taking into account fac-
5 tors such as the type of navigation services made available;
6 type, size, and capacity of the vessel; type and amount
7 of cargo carried; type of port or region; economic effi-
8 ciency; fair distribution of common costs; and other fac-
9 tors the Secretary considers appropriate. The total of fees
10 or charges imposed shall not exceed the total costs of navi-
11 gation services used or usable by all vessel classifications
12 combined, including the costs of administering, collecting,
13 and enforcing the fees.

14 “(B) Fees authorized under this subsection—

15 “(i) may be waived or reduced by the Secretary,
16 if in the public interest; and

17 “(ii) shall be subject to the limitations pre-
18 scribed in paragraphs (3) through (5) of subsection
19 (a) of this section.

20 “(5) Notwithstanding sections 553(b) and 553(c) of
21 title 5, the Secretary shall prescribe by interim final rule
22 an initial schedule of fees and the procedures for payment
23 and collection, which shall be effective without the neces-
24 sity for consideration of comments received. However,

1 public comment on the interim final rule shall be sought
2 and considered before a final rule is promulgated.

3 “(6) In this subsection—

4 “(A) ‘commercial vessel’ means a vessel used in
5 transporting goods or individuals by water for com-
6 pensation or hire or in the business of the owner,
7 lessee, or operator of the vessel, but does not include
8 a public vessel, a vessel deemed to be a public vessel
9 under section 827 of title 14, a recreational vessel,
10 a ferry, or a fishing vessel; and

11 “(B) ‘navigation services’ means activities and
12 facilities used to make available or provide place-
13 ment and maintenance of buoys and other short-
14 range aids to navigation, vessel traffic services, radio
15 and satellite navigation systems, waterways regula-
16 tion, or other services that facilitate navigation of
17 commercial vessels, as determined by the Sec-
18 retary.”;

19 (2) in subsection (e) by inserting after “viola-
20 tion” the following: “, except that in the case of a
21 fee or charge established under subsection (b) of this
22 section, the civil penalty shall be not less than twice
23 the amount of the fee or charge due under sub-
24 section (b)”;

1 (3) in subsection (h) by inserting after “sec-
2 tion” the following: “(except those collected pursu-
3 ant to subsection (b)(1) of this section)”; and

4 (4) in subsection (k) by inserting after the first
5 sentence the following: “This subsection does not
6 apply to a regulation that would promulgate a user
7 fee specifically authorized by law after November 13,
8 1998.”.

9 (b) EFFECTIVE DATE OF FEES.—No fee shall be col-
10 lected under the amendments made by subsection (a) until
11 30 days after the effective date of interim final regulations
12 promulgated pursuant to those amendments.

13 **PART III—HAZARDOUS MATERIALS**

14 **TRANSPORTATION SAFETY FEES**

15 **SEC. 831. HAZARDOUS MATERIALS TRANSPORTATION SAFE-** 16 **TY FEES.**

17 Section 5108 of title 49, United States Code, is
18 amended—

19 (1) by striking subsection (b)(1)(C) and insert-
20 ing the following:

21 “(C) each State in which the person car-
22 ries out any of the activities.”;

23 (2) by striking subsection (e) and inserting the
24 following:

1 “(c) FILING SCHEDULE.—Each person required to
2 file a registration statement under subsection (a) of this
3 section shall file that statement in accordance with regula-
4 tions issued by the Secretary.”;

5 (3) in subsection (g)(1), by striking “may” and
6 inserting “shall”;

7 (4) in subsection (g)(2)(A), by striking “\$250
8 but not more than \$5,000” and inserting “\$500”;

9 (5) in subsection (g)(2)(A), by striking “sub-
10 paragraph (B)” and inserting “subparagraph (E)”;

11 (6) in subsection (g)(2)(A)(viii), by striking
12 “sections 5108(g)(2), 5115, and 5116” and insert-
13 ing “chapter 51 (except sections 5109, 5112, and
14 5119)”;

15 (7) by striking subsections (g)(2)(B) and
16 (g)(2)(C) and inserting the following:

17 “(B) At the beginning of each fiscal year, the
18 Secretary shall publish a fee schedule for the fee es-
19 tablished under this paragraph. The fee schedule
20 shall be designed to collect the following amounts:

21 “(i) Amounts authorized for that fiscal
22 year, from amounts in the account established
23 under section 5116(i), to carry out sections
24 5116(a), 5116(i), and 5116(j).

1 “(ii) Amounts appropriated to the Re-
2 search and Special Programs Administration
3 (RSPA) for that fiscal year from amounts col-
4 lected under subsection (g)(2)(B)(ii).

5 “(iii) Amounts appropriated to RSPA for
6 that fiscal year, from amounts in the account
7 established under section 5116(i), to carry out
8 sections 5107(e) and 5115.

9 “(iv) Amounts authorized for that fiscal
10 year, from amounts in the account established
11 under section 5116(i), for publication and dis-
12 tribution of the North American Emergency
13 Response Guidebook.

14 “(C) The Secretary shall transfer to the Sec-
15 retary of the Treasury all funds received by the Sec-
16 retary under this paragraph, except the amounts ap-
17 propriated to RSPA from amounts collected under
18 subsection (g)(2)(B)(ii), for deposit in the account
19 the Secretary of the Treasury established under sec-
20 tion 5116(i).

21 “(D) Fees authorized under subsection
22 (g)(2)(B)(ii) shall be available for obligation only to
23 the extent and in the amount provided in advance in
24 appropriations Acts. Such fees are authorized to re-
25 main available until expended.

1 “(E) The Secretary shall adjust the amount col-
2 lected under subsection (g)(2)(B) to reflect any un-
3 expended balance in the account established under
4 section 5116(i). However, the Secretary is not re-
5 quired to refund any fee collected under this para-
6 graph.”; and

7 (8) in subsection (i)(2)(B), by striking “State,”
8 and inserting “State, an Indian tribe,”.

9 **PART IV—COMMERCIAL ACCIDENT**

10 **INVESTIGATION FEES**

11 **SEC. 841. COMMERCIAL ACCIDENT INVESTIGATION USER** 12 **FEES.**

13 (a) IN GENERAL.—Chapter 11 of title 49, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

16 **“§ 1120. Commercial accident investigation fees**

17 “(a) IN GENERAL.—

18 “(1) AUTHORITY.—A fee for service to offset,
19 on an annual basis and to the extent provided in this
20 subsection, the costs of investigation of commercial
21 transportation accidents and incidents, may be col-
22 lected by the United States Government as specified
23 in this section.

24 “(2) USE AND AVAILABILITY.—Except as pro-
25 vided under paragraph (4), fees authorized under

1 this section shall be available for obligation, to re-
2 main available until expended, only to the extent and
3 in the amount provided in advance in appropriations
4 Acts for the investigation by the National Transpor-
5 tation Safety Board of accidents involving air, ocean
6 and inland waterways, and rail carriers.

7 “(3) DEPOSIT.—Each fee collected under this
8 section shall be deposited as an offsetting collection
9 to the account that is the source of funds used to
10 pay the costs of accident investigations.

11 “(4) EXCESS AMOUNTS.—Notwithstanding
12 paragraphs (2) and (3), amounts collected under
13 this section that exceed \$10,000,000 in any fiscal
14 year shall be transferred to the emergency fund es-
15 tablished under section 1118(b), and shall be avail-
16 able until expended for unforeseen costs attributable
17 to investigations by the National Transportation
18 Safety Board of extraordinary accidents involving
19 air, ocean and inland waterways, and rail carriers.

20 “(b) AIRCRAFT ACCIDENT INVESTIGATION FEE.—To
21 the extent that a fee for service is newly imposed on the
22 operation of a commercial aircraft in United States air-
23 space (or on a flight segment to or from the United
24 States) by the Administrator of the Federal Aviation Ad-
25 ministration after September 30, 1999, the amount of the

1 fee shall, in fiscal year 2000 and each succeeding fiscal
2 year in which the fee is imposed, be automatically in-
3 creased under the authority of this section by a pro rata
4 amount that allocates over the total fees imposed on an
5 aircraft for the fiscal year, the amount that is equivalent
6 to the revenue hours of service of the aircraft in United
7 States airspace (or on a flight segment to or from the
8 United States) during the fiscal year, multiplied by
9 \$00.60.

10 “(c) RAILROAD ACCIDENT INVESTIGATION FEE.—To
11 the extent that a fee for service is newly imposed on the
12 operation of a rail carrier, as defined in section 10102 of
13 this title, by the Secretary of Transportation after Sep-
14 tember 30, 1999, the amount of the fee shall, in fiscal
15 year 2000 and each succeeding fiscal year in which the
16 fee is imposed, be automatically increased under the au-
17 thority of this section by a pro rata amount that allocates
18 over the total fees imposed on the rail carrier for the fiscal
19 year, the amount that is equivalent to the number of train
20 miles of the rail carrier for the fiscal year, multiplied by
21 \$00.00313.

22 “(d) COMMERCIAL VESSEL ACCIDENT INVESTIGA-
23 TION FEE.—To the extent that a fee for service is newly
24 imposed by statute on the use of port facilities at harbors
25 within the United States by commercial vessels after Sep-

1 tember 30, 1999, the amount of the fee shall, in fiscal
 2 year 2000 and each succeeding fiscal year in which the
 3 fee is imposed, be automatically increased under the au-
 4 thority of this section by a pro rata amount that allocates
 5 over the total fees imposed on the commercial vessel for
 6 the fiscal year, the amount this is equivalent to the num-
 7 ber of vessel movements of the vessel during the fiscal
 8 year, multiplied by \$00.09.”.

9 (b) CONFORMING AMENDMENT.—The analysis for
 10 subchapter II of chapter 11 of title 49, United States
 11 Code, is amended by inserting at the end the following:
 “1120. Commercial accident investigation user fees.”.

12 **PART V—SURFACE TRANSPORTATION BOARD**
 13 **USER FEES**

14 **SEC. 851. SURFACE TRANSPORTATION BOARD USER FEES.**

15 Section 705 of title 49, United States Code, is
 16 amended—

17 (1) by inserting “(a) AUTHORIZATIONS.—” be-
 18 fore “There” at the beginning of the section;

19 (2) by striking “and” at the end of paragraph
 20 (2);

21 (3) by striking the period at the end of para-
 22 graph (3) and inserting “; and”; and

23 (4) by adding after paragraph (3) the following:

1 “(4) \$17,000,000 for fiscal year 2000, which
2 shall be derived from fees collected in the fiscal year
3 by the Board.

4 “(b) USER FEES AND CHARGES.—

5 “(1) IN GENERAL.—Beginning in fiscal year
6 2000, the Board is authorized to assess and collect
7 fees and annual charges in each fiscal year in
8 amounts equal to all of the costs incurred by the
9 Board in that fiscal year.

10 “(2) AMOUNT.—The amount of fees and
11 charges imposed by the Board under this subsection
12 shall be computed using methods that the Board de-
13 termines, by rule, to be fair and equitable.

14 “(3) USE AND AVAILABILITY.—Fees authorized
15 under this section shall be available for obligation, to
16 remain available until expended, only to the extent
17 and in the amount provided in advance in appropria-
18 tion Acts.”.

19 **PART VI—RAIL SAFETY USER FEES**

20 **SEC. 861. RAIL SAFETY INSPECTION USER FEES.**

21 Section 20115 of title 49, United States Code, is
22 amended—

23 (1) in subsection (a)—

24 (A) by striking “chapter” in the first sen-
25 tence and inserting “part”; and

1 (B) by amending paragraph (1) to read as
2 follows:

3 “(1) shall cover the costs incurred by the Fed-
4 eral Railroad Administration in carrying out this
5 part and chapter 51 of this title;”;

6 (2) by amending subsection (c) to read as fol-
7 lows:

8 “(c) COLLECTION, DEPOSIT, AND USE.—(1) The
9 Secretary is authorized to impose and collect fees under
10 this section for each fiscal year (beginning with fiscal year
11 2000) before the end of the fiscal year to cover the costs
12 of carrying out this part and Federal Railroad Adminis-
13 tration activities in connection with chapter 51 of this
14 title.

15 “(2) Fees authorized under this section shall be avail-
16 able for obligation only to the extent and in the amount
17 provided in advance in appropriations Acts. Such fees are
18 authorized to be appropriated to remain available until ex-
19 pended.”; and

20 (3) by striking subsections (d) and (e).

21 **TITLE II—BUDGET PROVISIONS**

22 **SEC. 2001. REDUCTION OF PREEXISTING BALANCES ON** 23 **PAYGO SCORECARD.**

24 Upon the enactment of this Act, the Director of the
25 Office of Management and Budget shall—

1 (1) reduce any balances of direct spending and
2 receipts legislation for fiscal year 2000 under section
3 252 of the Balanced Budget and Emergency Deficit
4 Control Act of 1985 to zero; and

5 (2) treat the amount of any balances so reduced
6 as negative discretionary budget authority and out-
7 lays for fiscal year 2000 under section 251 of such
8 Act.

○