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Senate

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, I understand Senator KASSEBAUM is prepared to offer an amendment with reference to education. I understand we have 10 minutes on our side and they have 10 minutes on their side.

The PRESIDING OFFICER. The Senator from New Mexico is not correct in that. There is 10 minutes equally divided, 5 minutes to a side.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2962

(Purpose: To strike the provisions relating to loan payments from institutions, the elimination of the grace period interest subsidy, and the PLUS loan interest rate and rebate)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, and Mr. GORTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for herself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, and Mr. GORTON, proposes an amendment numbered 2962.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1421, beginning with line 15, strike all through page 1423, line 13.

On page 1424, beginning with line 2, strike all through page 1426 line 9.

Mrs. KASSEBAUM. Mr. President, the purpose of this amendment is to strike the provisions relating to loan payments from institutions, the elimination of the grace period interest subsidy, and the PLUS loan interest rate and rebate.

I will just briefly speak to this, Mr. President, because this has been something the Labor and Human Resources Committee has worked long and hard on. We passed the budget resolution earlier this year in the U.S. Senate. The Labor Committee, as a whole, expressed reservations at that time about the magnitude of the cuts that the resolution directed us to make in the Federal student loan programs. However, we agreed to try and meet the reconciliation instruction, and we did so.

As chairman of the Committee on Labor and Human Resources, on behalf of the majority members of this committee, we worked to get a package that met the reconciliation instruction and had the least impact on students.

Much has been said on the Senate floor about the impact on students. We consciously directed the effort so that it would not impact strongly on students. This amendment would reduce savings by about $6 billion from the original $10.8 billion that was requested from and produced by the committee. Those costs will be offset by excess savings from the entire budget package.

Mr. President, this amendment would eliminate the provision of the bill that would require students to pay for the interest on their subsidized Stafford loans in the 6 months after they leave school. This would have only applied to new borrowers, but we now eliminate that provision. It would eliminate a raise in interest rate and the interest rate cap on the PLUS parent loans and would also repeal the assessment of a participation fee on institutions of higher education.

The main difference between this amendment and the amendment offered by Senator KENNEDY, is that we leave intact provisions in the budget bill that would decrease the size of the direct loan program to a more appropriate demonstration size, until we can fully assess the merits and feasibility of direct lending. Direct lending does not affect student eligibility for Federal student loans, nor does it affect the amount of funds available for loans or the rates and fees charged to students. They do not make financial aid more affordable or more accessible.

Mr. President, I just add that there are two members—one, a member of the committee, Senator JEFFORDS from Vermont, and the other is Senator SNOWE from Maine—who have felt strongly from the very beginning that we simply should not cut into the education funds as much as the reconciliation request required. They have fought long and hard.

I will yield what time I have remaining to Senator JEFFORDS and Senator SNOWE but I want to point out that a majority of the committee is cosponsoring this amendment. We are all united behind this amendment, and it has been a dedicated effort on the part of the committee majority members.

I yield the floor to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont has 1 minute, 21 seconds.

Mr. JEFFORDS. Mr. President, let me briefly remind everybody that a while back, when we were dealing with the budget resolution, 67 of us voted not to cut more than $4 billion out of higher education. This amendment would bring this level closer to where we in the Senate voted earlier this year to be—a $5 billion cut from the $10.8 billion. I remind my colleagues of that. I hate to see anybody be inconsistent with their voting, and since 67 voted for something a little more draconian than this, I hope those Senators will stay with us on this amendment.

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

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I will also say, while I believe that we should have direct lending stay in as it creates great competition for the programs, and am in favor of having a rate higher than 20 percent that is in the bill now, I could not go with the Democratic amendment because it essentially opens up direct lending fully. I will therefore be voting against the Kennedy amendment. But I will be voting in favor, obviously, of the Kassebaum–Snowe-Jeffords amendment.

Our amendment restores the 6-month grace period, eliminates the .85 percent institution fee, and lowers the interest rate on PLUS loans. Reducing the labor committee's instruction from $10.85 billion over 7 years to $5 billion.

Let me lay aside the issue of reducing education cuts for one quick moment and explain why this amendment is so important.

The amendment offered by my democratic colleagues restored direct lending to current law—or a transition to 100 percent. I simply could not support such a provision.

I have always been a supporter of testing the direct lending program and am on record as opposing the labor committee's bill to limit it to 20 percent. Twenty percent in my view is too small, it cuts out schools that currently participate in the program—that to me is wrong.

However, as I stated during debate of the 1993 reconciliation, I believe in a slow, implementation of direct lending. It should be undertaken thoughtfully and carefully. The amendment offered by my democratic colleagues is tantamount to a phase-in of direct lending. A phase-in suggests something very different than a thoughtful analysis of the two programs. My fear is that we have already made the decision to go full force without really looking at the advisability of such a move. It is like saying ''ready, fire, and then aim.''

For this reason I support a firm cap on direct lending. That cap, in my mind should be set at a point which protects the schools that are current participants and allows some room for growth. I suggest that number be set between 30–40 percent.

Mr. President, that is not the amendment we are currently considering. I offered that suggestion to my colleagues as a bipartisan approach. Unfortunately, that amendment coupled with billions of dollars in additional student aid, was rejected by the democrats and interestingly also by groups purporting to represent higher education. In particular the council on education.

I am truly disheartened that today we may have lost an opportunity to demonstrate to this Congress, the administration and the people of this country that education is not a partisan issue. Unfortunately, we gave up the chance to show that politics takes a back seat to sound policy.

I wish we could have put differences aside and discussed the real issue—reducing the labor committee's instruction and restore funding for education.

Certainly, we must balance the budget but we must cut expenditure not investment. That is what this amendment does. It strikes the .85 percent institution fee, restores the 6-month grace period, and eliminates the increase in the PLUS interest rate. Support for this amendment will provide savings to parents, students, and institutions.

Eliminating the interest subsidy during the 6-month grace period could increase the debt of an undergraduate who borrows the maximum $23,000 by almost $1,000, resulting in additional payments of nearly $1,400 over the life of the loan. For a graduate student who borrows the maximum $65,500, the result would be $2,700 in additional debt and almost $4,000 in additional payments.

Raising the interest rate and the interest rate cap on PLUS loans would increase the total payments of parents who borrow $20,000 for their children's education by $1,300.

It simply doesn't pay to cut education.

Consider the following: More highly educated workers not only earn more, but they work and pay taxes longer then less educated workers.

Between 1973 and 1993, median family income dropped by over 20 percent for families headed by a person with a high school diploma or less; but it held steady for those families headed by someone with 4 years of college; and increased for families head by someone with 5 years of college or more. (Mortenson, June 1995)

We need to encourage our young people to pursue higher education both to keep us competitive and to help balance the budget.

Higher education funds cannot be cut any further.

Unfortunately, the opportunity for individuals to go on to postsecondary education is getting slimmer and slimmer. Pell grant awards have not kept pace with college costs. Students have had to increase borrowing in order to make up the difference.

In 1985–86, the actual maximum Pell grant of $2,100 paid 58 percent of the total annual cost of attendance for a 4-year public institution $3,637. In 1993–94, the maximum Pell grant of $2,300 paid only 36 percent of the total cost, $6,454.

Because Federal grant programs have grown much more slowly than the cost of attending college, loans now, 1994–95 account for 56 percent of all student aid, up from 49 percent in 1985–96.

Borrowing has skyrocketed in recent years to such an extent that the amount borrowed through the FFEL program from 1990 to 1995 is greater than the total amount borrowed from its inception in 1965 through 1989.

With such statistics it is no wonder that polls show more and more students and families deciding that college is simply out of their reach. In fact, close to 20 percent of students consider leaving school because of debt. Considering the impact on our economy and the future earning potential of individuals with a postsecondary degree, this statistic is most disheartening.

I urge my colleagues to support this amendment and tell the nation that the issue of education spending is a bipartisan issue.

I see that the Senator from Maine has arrived. I am happy to yield to her.

The PRESIDING OFFICER. All time has expired.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have 5 minutes, as I understand it. I will speak for 2 minutes and then yield 2½ minutes to the Senator from Illinois.

Mr. President, this is, first of all, an extraordinary moment because it is an initial victory for the students of this country and their parents that our Republican friends are hearing their message about the unfair, unwise, unjustified additional burden on working families. So that is the good news.

The bad news is that what Senator KASSEBAUM's amendment will effectively do is to say to the 1,400 schools that now have direct lending that half of them are out. Half of them are out. There is no suggestion about how you are going to cut those out.

Under our amendment, we are leaving the choice to the schools, to the colleges. It is so interesting that our Republican friends want to close the option for local control out. We leave it up to the schools. If they want to get in, they can—maximum choice—and we leave it up to the schools to have competition between the direct loan program and the guaranteed loan program.

Under the amendment of the Republicans, they will be preserving the $77 billion that will flow through the guarantee agencies and guarantee $5 million in profits. That is not competition. Where is the voice for competition among the Republicans? Where is the description about what colleges are going to be in and what colleges are going out?

The amendment that has been introduced by myself and Senator SIMON goes back to what was agreed to in terms of direct loans in 1993. We permit the colleges that want to get in, and we establish a ceiling. That was bipartisan. Someone tell me what happened in the 1994 election that was to say that we are going to jiggle the system and force the students into the guaranty system.

I yield to the Senator from Illinois.

Mr. SIMON. Mr. President, I agree this is a step forward. But it eliminates—cuts down to 20 percent direct lending. This is, frankly, a brazen kind of pandering to the banks and the guaranty agencies. There is not a college or university in this Nation that has a direct lending program that does not want to keep it. And as our friend and former colleague, DAVE DURENBERGER, said, ''This is not free enterprise, the

old system, this is free lunch for the guaranty agencies and the banks.'' We write into the law their profit.

In terms of the taxpayer, we wrote the budget resolution so that you would count the administrative cost for direct lending but not for the guaranty student program. CBO says, under current law, that leaving this 20 percent, as the Kassebaum amendment does, will cost the Nation $4.64 billion. All colleges and universities, again, who are in the program like it. It saves a huge amount of paperwork. Students like it, parents like it, taxpayers like it.

The Kennedy amendment is budget neutral. We do not add to the deficit. Why are we doing something that colleges like, students like, and taxpayers benefit from? We are doing it for one reason and one reason only: To benefit the banks and the guaranty agencies.

If we want to call this a bank assistance bill—and they have record-breaking profits right now—we ought to do that. If we want to call this an assistance to guaranty agencies, we ought to do that; but if we want to call it an assistance to students bill, then we ought to vote for the Kennedy amendment. Let me just point out that this idea came from Congressman TOM PETRI, a Republican from Wisconsin. DAVE DURENBERGER, Republican from Minnesota, was the chief cosponsor of this.

This should not be a partisan thing. I hope Members on both sides will vote for the Kennedy-Simon amendment. It makes sense for everyone. I just appeal to you on behalf of America's students.

Mr. KENNEDY. Do I have 30 seconds?

The PRESIDING OFFICER (Mr. THOMPSON). Ten seconds.

Mr. KENNEDY. Mr. President, this is a clear attempt to strike one of the initiatives of President Clinton—eliminate National Service, eliminate Goals 2000, eliminate direct lending for education.

Our Republican friends cannot stand a good idea when they see one.

The PRESIDING OFFICER. All time under the amendment has expired.

Mr. DOMENICI. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Congressional Budget Office dated October 26 saying there has been no scorekeeping activities that try to prejudice one of the programs versus another; that is, that guaranteed one versus another.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 26, 1995.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In your letter of September 5, 1995, you asked the Congressional Budget Office (CBO) to respond to several questions regarding the Credit Reform Act and section 207 of the 1966 budget resolution related to the treatment of administrative expenses in the student loan programs. Attached are CBO's responses to your questions.

If you wish further details, we will be pleased to provide them. The CBO staff contact is Deborah Kalcevic.

Sincerely,

JUNE E. O'NEILL,
Director.

Attachment.

RESPONSES TO QUESTIONS FROM CHAIRMAN DOMENICI

The Credit Reform Act of 1990 provided that the federal budget would record the cost of direct loans and guaranteed loans on a subsidy basis rather than a cash basis. The act defined the subsidy cost of a loan to equal the present discounted value of all loan disbursements, repayments, default costs, interest subsidies, and other payments associated with the loan, excluding federal administrative costs. Federal administrative costs of loan programs continued to be accorded a cash-accounting treatment. Estimates of proposals affecting student loans made from 1992 through early 1995 used the accounting rules established in the Credit Reform Act.

The budget resolution for fiscal year 1996, adopted in June 1995, specified that the direct administrative costs of direct student loans should be included in the subsidy estimates of that program for purposes of Congressional scorekeeping. Since June, for estimating legislation under the 1996 budget resolution, the Congressional Budget Office (CBO) has used this alternative definition of subsidy costs. In addition, changes in economic and technical estimating assumptions complicate the comparison of estimates made at different times. The following questions and answers explore the implications of the change in accounting for direct student loans.

Question 1: The President proposed, and signed into law in 1993, the Federal Direct Student Loan Program to replace the guaranteed lending program. What was the time frame adopted for the phase-in of that program when it was initially enacted and what savings estimate was provided by CBO?

Answer: The President's fiscal 1994 budget proposed expanding the direct student loan program from a pilot program (which was about 4 percent of loan volume) to a program that would provide 100 percent of all student loans by the 1997–1998 academic year. As part of the request, the President proposed to lower interest rates to borrowers as of July 1997, substantially increase the annual capped entitlement levels for direct loan administrative costs, and subsidize schools for loan origination. The budget proposed no changes in the guaranteed loan program except to phase it out. CBO estimated that the proposal would save $4.3 billion over the 1994–1998 period. These estimates were completed using the CBO February 1993 baseline economic and technical assumptions. The President's proposal became the policy assumed in that year's budget resolution.

The legislation passed by the Congress differed significantly from the policies assumed in the budget resolution. The bill met the requirement to save $4.3 billion by limiting the volume in the direct lending program to 60 percent of the total and substantially cutting subsidies in the guaranteed loan program. Specifically, direct loans were to represent 5 percent of total volume for academic year 1994–1995, 40 percent for 1995–1996, 50 percent for 1996–1997 and 1997–1998, and 60 percent for 1998–1999. The legislation also provided that the ceiling could be exceeded if demand required it.

Question 2: In his FY96 budget, the President proposed an acceleration of that plan so that all student loans would be provided directly from the government no later than July 1, 1997. What ''additional'' savings did CBO estimate for the accelerated phase-in under the Credit Reform Act?

Answer: The President's fiscal year 1996 budget request included a proposal to expand the direct student loan program to cover 100 percent of loan volume by July 1997. This proposed change was estimated to save $4.1 billion from the CBO baseline over the 1996–2002 period. That baseline incorporated CBO's February 1995 economic and technical assumptions and the direct loan phase-in schedule provided under current law. This baseline reflected the rules that are currently in law for estimating the cost of credit programs.

The 1996 budget resolution specified that the direct administrative costs of direct student loans should be included in the subsidy estimates for that program for purposes of Congressional scorekeeping. This change conformed the treatment of the administrative costs of direct student loans with that for guaranteed student loans. For purposes of Congressional budget scorekeeping, the change overrides the Credit Reform Act, which requires that the federal administrative costs for direct loan programs be accorded a cash-accounting treatment.

For estimating legislation under the 1996 budget resolution, CBO modified its baseline for direct student loans to include in the subsidy calculations the present value of direct federal administrative costs, including the loans' servicing costs. This change means that direct loans issued in a given year have their administrative costs calculated over the life of the loan portfolio, with adjustments for the time value of the funds. Therefore, the subsidy costs of any year's direct loans will include the discounted future administrative costs of servicing loans which may be in repayment (or collection) for as long as 25 to 30 years. The inclusion of these administrative costs in the subsidy calculations for direct loans increases the subsidy rates for these loans by about 7 percentage points. Consequently, the resolution baseline for student loans is higher than the current CBO baseline. Under the assumptions of the budget resolution baseline, the President's 100 percent direct lending proposal would save $115 million over the 1996–2002 period.

Question 3: What would be the long term costs, under scoring rules in effect prior to the 1995 budget resolution, for the above proposal? How would those savings be affected over the life of the loan? How would those costs be compared with the same volume of loans made under the guaranteed program?

Answer: The response to the first part of this question is addressed in the previous answer. Compared to the CBO baseline, the President's 1996 budget proposal was estimated to save $4.1 billion over the next seven years. In order to provide an estimate of a proposal to return to 100 percent guaranteed lending by July 1997 under either the CBO or the resolution baseline, we would need more detail than has been provided on how the program would be restructured.

Question 4: Did the credit reform amendment adopted as part of the budget resolution direct the Congressional Budget Office to exclude any costs for guaranteed loans?

Answer: This year's budget resolution addressed only the budgetary treatment of the administrative costs of direct student loans. By defining the direct administrative costs of direct loans and requiring these costs be calculated over the life of the loan portfolio, the resolution allowed for the costs of direct and guaranteed loans to be evaluated on a similar basis. Thus, all of the program costs for both programs are included in the resolution baseline and are accounted for in the same way, whether they are calculated on

the basis of subsidy or cash-based accounting.

Question 5: Are there any expenses of direct or guaranteed loans that are currently excluded from the government subsidy costs that would be more appropriately be included in that subsidy? If so, what are they and why have they been excluded from the subsidy cost? For example, some have argued that the credit reform amendment did not include the administrative cost allowance which is paid to guarantee agencies.

Answer: Indirect administrative costs—those not directly tied to loan servicing and collection—are included in the budget on a cash basis for both programs. Some have asked whether these costs would be more appropriately included in the loan subsidy calculations. Although it might be appropriate to include some or all of these costs in the subsidy calculation, as a practical matter it is not straightforward to determine which costs to account for in this manner. For the most part the costs of government oversight, regulation writing, Pell grant certification, and other similar expenditures are personnel costs of the Department of Education or contracted services. In addition, many of the costs, such as program oversight, are not tied to a single loan portfolio but affect many portfolios and both programs. Allocating these costs to specific portfolios and programs for specific fiscal years would be difficult.

The Omnibus Budget Reconciliation Act of 1993 (OBRA–93) eliminated administrative cost allowance (ACA) payments to guaranty agencies. Until that time, the volume-based payments were always included in the subsidy costs of guaranteed student loans. However, OBRA–93 gave the Secretary of Education authority to make such payments out of the $2.5 billion capped entitlement fund for the direct loan program. Any expenditures from this fund would be accounted for on a cash basis. If the Secretary chose not allocate any funds for this purpose, then there would be no payments to guaranty agencies.

As part of its current services budget estimates, the Department of Education announced plans to use funds available under the capped entitlement to pay administrative cost allowances to guaranty agencies at one percent of new loan volume for the next five years. Both the CBO baseline and the budget resolution baseline include these planned administrative expenses on a cash basis under the capped entitlement account at the Department's current services levels.

It makes little budgetary difference whether these payments are computed on a cash or subsidy basis. Because the payments are made at the time of loan disbursement, their estimated costs on a cash basis or subsidy basis would be essentially the same. As a result, over the 1996–2002 period the cost of the student loan programs and the budget totals would be changed only marginally by accounting for these payments on a subsidy basis.

Question 6: What possible mechanisms exist to reclassify these costs as part of the federal subsidy, to be scored on a present value basis?

Answer: The guaranty agency cost allowance could again be made an automatic government payment under the guaranteed student loan law. Including the current cash-based indirect administrative expenses for both the direct and guaranteed loans in the subsidy estimates would require amending the Credit Reform Act, but it would be difficult to estimate a wide range of federal personnel-related expenses over a 25- to 30-year period. Determining whether some types of expenditures that are now accounted for on a cash basis should be included in the subsidy calculation would require a more thorough review of the current expenditures of the Department of Education than has been conducted to date.

Question 7: Does the credit reform rule adopted as part of the budget resolution provide the proper framework to fairly assess all direct federal expenses of guaranteed and direct loans?

Answer: In general, the Credit Reform Act amendment allows direct comparisons between the costs of the guaranteed and direct loan programs.

Question 8: Some have claimed that savings associated with the Goodling proposal to repeal direct lending were a result of excluding administrative costs of guaranteed loans. What is the primary reason for the $1.5 billion in savings associated with the Goodling proposal under the new scoring rule?

Answer: On July 26, 1995, CBO prepared an estimate of the original Goodling proposal. The proposal had three components: (1) eliminate the authority for new direct student and parent loans effective in academic year 1996–1997; (2) change the annual and cumulative budget authority levels under Section 458 to reflect the elimination of indirect administrative cost anticipated for new direct loans and the termination of payments of Section 458 funds to guarantee agencies and limit the funds to $24 million annually; and (3) reestablish an administrative cost allowance (ACA) for guarantee agencies at 0.85 percent of new loan volume or 0.08 percent of outstanding volume, with an annual limitation on ACA subsides of $200 million. Assuming an enactment date of October 1995, the proposals would reduce outlays for student loans by $227 million for fiscal year 1996 and by $1.5 billion over the 1996–2002 period.

Relative to the budget resolution baseline, shifting loan volume to guaranteed loans would save $855 million over the 1996–2002 period. Administrative expenditures would be reduced by $1.97 billion over the next seven years by lowering the cap. Of this amount, $824 million reflects the elimination of the discretionary guaranty agency payments, and the remainder reflects the elimination of the discretionary guaranty agency payments, and the remainder reflects the elimination of the indirect costs for the phased-out direct loan program. Reestablishing the ACA for a 100 percent guaranteed loan program would cost $1.3 billion over seven years.

Although the Goodling proposal would have eliminated most of the funds to funds a oversee the phased-out direct loan program by reducing the capped entitlement level for these funds, it did not address the level of appropriated funds that would be necessary to oversee the larger guaranteed loan program.

Question 9: Did the Goodling proposal to eliminate the direct loan program and make changes to the guaranteed program you were asked to score, address all federal administrative costs of direct and guaranteed loans? When you applied the new scoring rule, were you able to properly categorize those expenses to provide a completed fair calculation of the cost differential?

Answer: All of the cost analyses of the Goodling proposal for both the direct and guaranteed loan programs were completed using the same budgetary treatment for both programs. The Goodling proposal, however, did not address the level of discretionary appropriations necessary to oversee the larger guaranteed loan program.

Mr. SIMON. Will my colleague yield for a question?

Mr. DOMENICI. Yes.

Mr. SIMON. Under the scorekeeping in the budget resolution, you say count the administrative costs for direct lending but not for the guaranteed program, and we asked CBO, how do you score it under current law? There is a savings of $4.6 billion under direct lending.

Mr. DOMENICI. There is a statement in the letter from CBO on that issue.

Mr. SIMON. I will read it, and I thank my colleague.

Mr. DOMENICI. I want 30 seconds to say thanks to Senator KASSEBAUM and the other Senators who worked on our side. I think they have come up with a very good amendment, and I think ultimately the students across America who have been concerned will find they have done an excellent job in taking care of an overwhelming percentage of their issues.

We thank you for it.

VOTE ON ROCKEFELLER MOTION TO COMMIT

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have not been ordered.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote? The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 499 Leg.]

YEAS—46

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Pell
Breaux	Hollings	Pryor
Bryan	Inouye	Reid
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Specter
Dorgan	Lautenberg	Wellstone
Exon	Leahy	
Feingold	Levin	

NAYS—53

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Nunn
Burns	Gregg	Pressler
Campbell	Hatch	Roth
Chafee	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	

So the motion to lay on the table the motion to commit was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2950

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of explanation equally divided on the Abraham amendment.

Mr. BYRD. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Chamber will be in order.

The Senator from Michigan.

Mr. ABRAHAM. Mr. President, the next amendment before us is very simple.

Mr. BYRD. Mr. President, the remarks do not mean anything if we cannot hear them. May we have order?

The PRESIDING OFFICER. The Chamber will be in order.

Mr. BYRD. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank you, Mr. President.

The next amendment I will offer is pretty straightforward. It basically creates a mechanism by which the Medicare beneficiaries can be rewarded for assisting us in ferreting out the waste, the fraud, and abuse in the Medicare program.

Under the amendment, the Secretary of HHS has the responsibility of setting up two programs—one program that in effect is a whistle-blower program which would provide bonuses to Medicare beneficiaries who will identify Medicare fraud and abuse. The other program would be designed to provide bonuses to Medicare beneficiaries who identify waste, and to streamline and make more efficient and less costly the Medicare system.

Mr. President, I think this will help us to achieve cost savings in Medicare while at the same time providing benefits to Medicare beneficiaries who assist us in that effort.

I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I yield 1 minute to Senator HARKIN.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Thank you, Mr. President. I thank the Senator from Nebraska for yielding.

As I said, I support the Abraham amendment. It is not a bad amendment. It is a good amendment. There is nothing wrong with it. I would just point out it is sort of voluntary on the Secretary's part. It does not mandate that they have to do this. It says the Secretary may set these up. That is fine, as far as it goes. I would just say that probably later on today or tomorrow, the amendment that I had offered to the Abraham amendment last night will be coming up for a vote, which provides for some tough measures. We will talk about that later. This amendment is a good amendment. I intend to support it. It is in keeping with trying to give the Secretary more power to cut down on waste, fraud, and abuse.

So it is a good amendment. We will certainly support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have not been ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 500 Leg.]

YEAS—99

Abraham	Feingold	Lott
Akaka	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Gramm	Moynihan
Boxer	Grams	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Cohen	Jeffords	Sarbanes
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simon
Craig	Kempthorne	Simpson
D'Amato	Kennedy	Smith
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	Warner
Faircloth	Lieberman	Wellstone

So, the amendment (No. 2950) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BRADLEY MOTION TO COMMIT

Mr. EXON. Mr. President, I understand that the Bradley motion is next. I would appreciate, if possible, the Chair recognizing the Senator from New Jersey for the purpose of a 1-minute statement.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, this amendment eliminates the tax increase on people making under $30,000 a year. This bill contains a tax cut for estates of $5 million, a tax cut in the amount of $1.7 million.

We are not touching that tax cut, but we are trying to prevent the tax increase that will come in this bill for people making under $30,000 a year. The EIC offsets income taxes, Social Security, and excise taxes. The other side has talked only about income taxes.

Last year, with $114 billion in Federal taxes, only $12 billion of that was income taxes from people making under $30,000 a year. Why increase taxes on those hard-working Americans? These are Americans who work every day, and they pay their taxes, and they support their families.

This motion is progrowth and profamily. It deserves to be supported because it is a tax cut for individual working families.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. I yield our time to Senator NICKLES.

Mr. NICKLES. Mr. President, one, let me just tell my colleague from New Jersey, and other colleagues, there is no tax increase for individuals making less than $30,000. That claim has been refuted by the Joint Tax Committee. It is totally false, and people making that claim should really be ashamed of themselves.

Mr. President, I am going to put in the RECORD the facts. The facts are, the earned income tax credit grows even under our proposal. It grows. The maximum benefit that anybody can receive today is $3,100. It grows next year to $3,200. And in 7 years it grows to $3,888. It is an increase.

This is a program that is a cash outlay program. Eighty-five percent of this program is Uncle Sam writing checks, not reducing liability, but writing checks. And it is the most fraudulent program we have in Government today. GAO said 30 to 40 percent of it was in fraud and in error.

It needs to be reformed. That is what we do. This program should be reformed. These proposals that we have made, I think, are the right things to do for American families.

Mr. President, I ask unanimous consent that the table be printed in the RECORD.

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

FISCAL YEAR 1996: TWO PARENTS, TWO CHILDREN

Income	EIC: Two or more children		Tax burden			EIC relief: As a percent of tax burden	
	Current law	Senate reform	Income taxes	FICA (15.3 percent)	Total	Current law	Senate reform
$1	$0	$0	$0	$0	$0	261	235
$1,000	400	360	0	153	153	261	235
$2,000	800	720	0	306	306	261	235
$3,000	1,200	1,080	0	459	459	261	235
$4,000	1,600	1,400	0	612	612	251	235
$5,000	2,000	1,800	0	765	765	261	235
$6,000	2,400	2,160	0	918	918	261	235
$7,000	2,800	2,520	0	1,071	1,071	251	235
$8,000	3,200	2,880	0	1,224	1,224	261	235
$8,910	3,564	3,208	0	1,363	1,363	261	235
$9,000	3,564	3,208	0	1,377	1,377	259	233
$10,000	3,564	3,208	0	1,530	1,530	233	210
$11,000	3,564	3,208	0	1,683	1,683	212	191
$11,630	3,564	3,208	0	1,779	1,779	200	180
$12,000	3,486	3,124	0	1,836	1,836	190	170
$13,000	3,275	2,912	0	1,989	1,989	165	146
$14,000	3,065	2,700	0	2,142	2,142	143	126
$15,000	2,854	2,488	0	2,295	2,295	124	108
$16,000	2,644	2,276	0	2,448	2,448	108	93
$17,000	2,433	2,065	15	2,601	2,616	93	79
$18,000	2,222	1,853	165	2,754	2,929	76	63
$19,000	2,012	1,641	315	2,907	3,222	62	51
$20,000	1,801	1,429	465	3,060	3,525	51	41
$21,000	1,591	1,218	615	3,213	3,828	42	32
$22,000	1,380	1,006	765	3,366	4,131	33	24
$23,000	1,169	794	915	3,519	4,434	26	18
$24,000	959	583	1,065	3,672	4,737	20	12
$25,000	748	371	1,215	3,825	5,040	15	7
$26,000	538	159	1,365	3,978	5,343	10	3
$26,731	384	0	1,475	4,090	5,564	7	0
$27,000	327	0	1,515	4,131	5,646	6	0
$28,000	116	0	1,665	4,284	5,949	2	0
$28,553	0	0	1,748	4,369	6,117	0	0
$29,000	0	0	1,815	4,437	6,252	0	0
$30,000	0	0	1,965	4,590	6,555	0	0

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. Mr. President, I move to table the Bradley motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to table the Bradley motion to commit. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 501 Leg.]

YEAS—53

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	

NAYS—46

Akaka	Daschle	Hollings
Baucus	Dodd	Inouye
Biden	Dorgan	Johnston
Bingaman	Exon	Kennedy
Boxer	Feingold	Kerrey
Bradley	Feinstein	Kerry
Breaux	Ford	Kohl
Bryan	Glenn	Lautenberg
Bumpers	Graham	Leahy
Byrd	Harkin	Levin
Conrad	Heflin	Lieberman
Mikulski	Pell	Sarbanes
Moseley-Braun	Pryor	Simon
Moynihan	Reid	Wellstone
Murray	Robb	
Nunn	Rockefeller	

So, the motion to lay on the table the motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GRAHAM MOTION TO COMMIT

The PRESIDING OFFICER (Mr. GORTON). The pending business is the motion of Senator GRAHAM to commit the bill with instructions. There are 2 minutes of debate equally divided.

The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, this reconciliation proposal is filled with risk—risk of the unknown, risks that have consequences that are beyond our ability to forecast. There is no area in this entire legislation that has a greater risk to the people of this country than the proposals in Medicaid.

We are proposing to cut Medicaid by $187 billion—I repeat, a program which, last year, had a total Federal expenditure of $89 billion, we are going to cut, over 7 years, by $187 billion. It is at risk because we are proposing, for those funds that are left, to place them in an inflexible block grant, without Federal participation, in terms of dealing with unexpected circumstances, and we are freezing in many of the inequities that have made this program inappropriate in the past.

Mr. President, we are putting at risk poor children, our elderly and, particularly, the States of America, as they are all being removed from the safety net that Medicaid has provided.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the biggest risk is that we not balance our budget, and that we continue to spend your children's and grandchildren's money to pay for programs we cannot afford.

Obviously, this program is growing so fast, it is unsustainable. Anyone who thinks it is being cut is not hearing the facts. We are going to increase this program to more than $94 billion next year, $124 billion in 2002. And over the entire period of time, this program will increase at a rather healthy rate, while most programs in the National Government are either frozen or reduced.

It is time that we reform this system so we can deliver on what we promise. But we also have to deliver on a promise to get interest rates down, to have growth and jobs for our children. We cannot have the status quo and do that also.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. DOMENICI. Mr. President, I move to table the motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table the motion to commit proposed by the Senator from Florida.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 502 Leg.]

YEAS—51

Abraham	Frist	Mack
Ashcroft	Gorton	McCain
Bennett	Gramm	McConnell
Bond	Grams	Murkowski
Brown	Grassley	Nickles
Burns	Gregg	Pressler
Campbell	Hatch	Roth
Chafee	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Kassebaum	Stevens
DeWine	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner

NAYS—48

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Harkin	Murray
Breaux	Heflin	Nunn
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Johnston	Reid
Cohen	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone

So the motion to lay on the table the Graham motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2959

Mr. EXON. Mr. President, I understand the next vote is on the Kennedy amendment. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been.

Mr. EXON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on amendment No. 2959 by the Senator from Massachusetts [Mr. KENNEDY] and others.

The Senate will be in order.

Mr. EXON. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Until conversations cease, we will just have to hold up.

The Senator from Massachusetts is recognized for 1 minute.

Mr. KENNEDY. Mr. President, I thank the Chair. This is an easy choice. My amendment strikes all provisions of the bill that increase the cost for students and families, and preserves choice and competition in the student loan program at the local level.

Senator KASSEBAUM's amendment rightfully pulls back the unfair and extreme provisions that increase the costs for students. It wrongfully prevents schools from choosing the loan program that best serves their students at the local level, and wrongfully provides a Government-mandated monopoly to the powerful special interests in the student loan industry.

I hope my amendment will be accepted.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Senate will vote on an amendment offered by Senators KASSEBAUM, JEFFORDS, and SNOWE that removes all cuts affecting students. The Senate Republicans do this without raising taxes or taxing investment. The Republican plan will result in lower interest rates which will benefit all students and all Americans. That is what our entire deficit reduction package is all about.

I yield any time I have and I move to table.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment by the Senator from Massachusetts.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 51, nays 48, as follows:

[Rollcall Vote No. 503 Leg.]

YEAS—51

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Helms	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
DeWine	Kyl	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—48

Akaka	Feingold	Leahy
Baucus	Feinstein	Levin
Biden	Ford	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Bradley	Harkin	Moynihan
Breaux	Hatfield	Murray
Bryan	Heflin	Nunn
Bumpers	Hollings	Pell
Byrd	Inouye	Pryor
Cohen	Johnston	Reid
Conrad	Kennedy	Robb
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Simon
Exon	Lautenberg	Wellstone

So, the motion to lay on the table the amendment (No. 2959) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Could I be advised how long that vote took?

The PRESIDING OFFICER. The last rollcall lasted approximately 13 minutes.

Mr. DOLE. Let me remind my colleagues three times 60 is a long time—we were about 3 minutes late on that vote—if we start slipping these votes for everybody who wants to step out for 5 minutes. If we just stay in the Chamber, we can do this in 10 minutes. I say to my colleagues, we are going to start ringing the bell here in 10 minutes.

The PRESIDING OFFICER. The Senate will be in order. It also slows down the Senate when conversations are going on during debate time.

AMENDMENT NO. 2962

The PRESIDING OFFICER. The issue before the Senate is amendment No. 2962 by the Senator from Kansas, [Mrs. KASSEBAUM]. There are 2 minutes equally divided.

Senator KASSEBAUM will be recognized when the Senate is in order.

The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I yield the time remaining to the Senator from Maine [Ms. SNOWE].

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I thank the Chair. I thank Senator KASSEBAUM for yielding.

Mr. President, I want to first recognize several of my colleagues who have been instrumental in helping to craft this amendment and reach a compromise on student loan funding.

First, the chairwoman of the Labor and Human Resources Committee, Senator KASSEBAUM, who has been a real leader on this issue. She has had to make difficult choices and tough decisions throughout this process—especially meeting instructions of $10.8 billion in savings for her committee, so I thank her for her work and for offering this amendment.

Second, the majority leader and the chair of the Budget Committee, Senator DOLE and Senator DOMENICI—for meeting our concerns and being responsive to our requests all along. Their support was obviously instrumental in crafting this amendment.

Finally, one of the main cosponsor of this amendment, Senator JEFFORDS of Vermont, for his concern, his support, and his compassion for the needs of America's students.

Mr. President, let there be no doubt about it, we are setting a course for America for the next 7 years and beyond as we debate the measure before us today. That is a heavy responsibility.

But the image of a better America, a stronger America, and a more fiscally secure America is incomplete for the next generations without one critical component: that is, a commitment to education funding and to students.

I believe one of our duties in this process is to keep the American Dream alive for our generation as well as the next generation of students—because we all know that educating today's students is also about preparing tomorrow's workers.

While I firmly believed that balancing the budget is the greatest legacy we can bequeath to our children and grandchildren, I do not believe it requires the sacrifice of educational opportunities to the children and students today.

Let us be clear about this: our two objectives—balancing the budget and providing quality educational opportunities—are not mutually exclusive entities.

I believe we can identify and set budget priorities within the framework of a balanced budget. I believe it is possible to be fiscally responsible and also be visionary about our education needs into the next century for the next generation.

That is basically what this amendment accomplishes. It is prudent. It is responsible. It's fair. And it maintains our commitment to excellence in education.

The amendment we are offering today would restore $5.9 billion in student loan funding that is sorely needed by America's youth to continue their education.

Basically, we are removing the most onerous and punitive provisions on students that are currently contained in this package.

Those provisions we are targeting for removal include the following: the imposition of a 0.85 percent fee on the student loan volume of institutions of higher learning; the provision increasing the interest rate on parent PLUS loans from T-bill plus 3.1 percent, to T-bill 4.0 percent; and—most importantly—the provision charging interest on student loans during the so-called 6-month grace period.

I believe we must support this amendment because student loans level the education playing field for so many in this country. In the world of education, student loans are the great ''enabler''. They afford everyone the equal opportunity to profit from a college education.

I should know, I owe my education and much of my career in public service to the student loan program, which sustained me at the University of Maine.

Now, it is important to add that the Senate has already gone on record and has made a strong statement in support of increased student loan funding.

Back in May, when the Budget Committee reported out a resolution that included a cut of more than $13 billion in student loan funding over 7 years—and when the House reported out a version that included a cut of over $18 billion, I joined several of my colleagues in taking action—because student loan funding programs would clearly result in leaving some needy students locked out of our Nation's colleges and universities, and therefore locked out of America's work force and a successful career.

And, with bipartisan support from both sides of the aisle, my colleague from Illinois, Senator SIMON, and I authorized and passed an amendment that restored $9.4 billion for student loans. No other amendment, except one, received as much bipartisan support during the consideration of the Senate budget resolution.

We should reaffirm that same level of commitment again today, and with this amendment, we now have an opportunity to do so.

If we pass this amendment, the Senate's strong support for this level of funding will be a strong instruction to the Senate conferees to maintain this level of funding during the upcoming House-Senate Reconciliation conference.

Now, I know that many of my colleagues on the other side of the aisle would have wanted more, especially when it come to direct lending. Obviously, there is a difference of opinion on direct lending.

While the amendment we are offering restores critical funding for loans, it maintains the bills current cap on direct lending at 20 percent. I could support raising this cap to 30 percent, which would cover the 1,300 education institutions currently involved in the direct lending program.

However, the sole purpose of this amendment is to restore funding for student loan programs. other opportunities may arise on the floor today or tomorrow to increase the cap on direct lending.

I have worked with many of my colleagues across the aisle, and I know that—in the final analysis—we share the same goals on funding for student education. That is the most important—the most critical-issue here.

Why is this amendment important to our students and to our future as a nation? What is the value of student loans?

it is unmistakable. Student loans have a tremendous impact on our nation's economy . . . on personal incomes . . . on careers . . . and especially on providing education to needy citizens.

Student loans have given millions of young Americans a fighting chance at reaching their own American Dream: in 1993, it gave 5.6 million Americans that chance, and that was almost double the number of loans made 10 years earlier, when it was 3 million, in fact, statistics show that almost half of all college students receive some kind of financial aid—many through student loans.

They have become especially important considering that the cost of college education and post-secondary education has become a very, very expensive proposition for students, as well as their families.

For example, a College Board survey says that 1995–1996 is the third straight year that tuition costs have risen by 6 percent. Since this rise outpaces income growth in America, there's heavy borrowing for a college education—up an average of 17 percent yearly since 1990.

Each year, college costs rise 6.6 percent for private college while we have recorded a rise in disposable personal income of only 4.4 percent. That 2 percent disparity is what is making student loans a pipe dream for our college-bound students.

In fact, since 1988, college costs have risen by 54 percent—well ahead of a 16 percent increase in the cost of living. And, more tellingly, student borrowing has increased by 219 percent since that time.

Without student aid, increasing costs make higher education out of reach for millions of Americans.

We should not have to bankrupt the families of students in order to allow them to send their children to receive a solid college education.

You see, when we allow students to get the loans they need to complete their college education, we are making a sizable, long-term investment in not only personal incomes, but our economy as well.

Men and women who continue their education beyond high school, as we have seen in study after study, have consistently earned more money on average each year than those who do not.

In 1990, for example, the average income for high school graduates was almost $18,000. For those who had 1 to 3 years of a college education, earned on the average $24,000. Those who graduated from college and received a college diploma received on average salary of $31,000.

According to the U.S. Department of Commerce, a person with a bachelor's degree will average 50 to 55 percent more in lifetime earnings than a person with a high school diploma.

The entire country benefits, as well from student loans. For every $1 we invest in education we get enormous returns as a result. Back in 1990, another study was conducted that analyzed the school assistance that was provided to high school students back in 1972.

For every $1 that the Federal Government invested in the student loan programs at that time, the Government received $4.3 in return in tax revenues.

According to a study by the Brookings Institute, over the last 60 years, education and advancements in knowledge have accounted for 37 percent of America's economic growth.

At a time in which education is becoming paramount in this global arena, where it is going to make the difference for an individual and the kind of living that can be enjoying for themselves and their families, education puts them on the cutting edge.

Most of all, it puts America on the threshold of competition for the future.

If we deny individuals the opportunity to receive an education because

they lack the financial assistance or the access to financial assistance, clearly, we—as a nation, a superpower, and the world's greatest democracy—are going to suffer.

Today, let's make sure that we retain policies that will make higher education accessible to millions of low—and middle-income families.

Today, let us make a significant contribution to students pursuing a higher education. Thank you, Mr. President.

Mr. President and Members of the Senate, I am very pleased to have joined Senator KASSEBAUM and Senator JEFFORDS offering this amendment that essentially restores $5.9 billion to the student loan program. This essentially reaffirms the position that has been taken by 67 Members of this body when we had a vote on this issue last spring to the budget resolution.

This amendment removes the provision that increases the origination fee on student loans. It removes the provision that allows interest rates to accrue during the so-called 6-month grace period, and it also eliminates the provision that allowed interest rates to increase on the PLUS loans from 3.1 percent to 4 percent.

I think we all acknowledge that college costs have increased in this country. In fact, since 1988, they have increased more than 54 percent—16 percent beyond the growth of income for most families in America. That has resulted in increased borrowing of 219 percent for individuals and families all across this Nation so that their family and their children can pursue higher education.

I think it essential for this country to retain the policies that ensure access for low- and middle-income families through these policies.

I also ask unanimous consent to include as cosponsors of this amendment Senators ROTH, DOMENICI, PRESSLER, STEVENS, and SPECTER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Maine has expired.

Mr. FRIST. Mr. President, I rise in support of the Kassebaum amendment which strikes from the budget reconciliation bill the provisions relating to a .85 percent school fee, the elimination of the grace period interest subsidy, and the PLUS loan interest rate increase.

Mr. President, I am committed to balancing the budget—this is probably the single most important thing we can do for our children and our country. Today's students will save money if we succeed in balancing the budget. According to Federal Reserve Chairman Alan Greenspan, a balanced budget will lower interest rates by 1–2 percent for everyone.

I am pleased that the leadership has found offsets which will make the Kassebaum amendment revenue neutral. It will allow us to balance the budget without imposing additional costs on students, their parents or schools.

This bill also benefits students by allowing those who have paid interest on education loans a credit against income tax liability equal to 20 percent of such interest up to $500.

As the father of three young children, I believe that education is one of the most important issues facing our nation today. We must continue to offer students across the country the opportunity to excel and obtain their goals. Many students depend on the federal student loan programs as their only chance to go to college. This amendment will allow us to preserve those programs without imposing additional costs on students.

Mr. EXON. Mr. President, I yield 1 minute to the distinguished Senator from Illinois, Senator SIMON.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I shall vote for the Kassebaum amendment, but I have to say I am doing it with real mixed feelings because it fails to address something that every higher education association favors, and that is direct lending. The colleges and universities in your States want direct lending. The bankers in your States and the guarantee agencies do not want it because they have a cushy deal going right now.

The Kassebaum amendment is an improvement over the resolution as it is right now, so I will vote yes for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The Senator from New Mexico.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 504 Leg.]

YEAS—99

Abraham	Coverdell	Harkin
Akaka	Craig	Hatch
Ashcroft	D'Amato	Hatfield
Baucus	Daschle	Heflin
Bennett	DeWine	Helms
Biden	Dodd	Hollings
Bingaman	Dole	Hutchison
Bond	Domenici	Inhofe
Boxer	Dorgan	Inouye
Bradley	Exon	Jeffords
Breaux	Faircloth	Johnston
Brown	Feingold	Kassebaum
Bryan	Feinstein	Kempthorne
Bumpers	Ford	Kennedy
Burns	Frist	Kerrey
Byrd	Glenn	Kerry
Campbell	Gorton	Kohl
Chafee	Graham	Kyl
Coats	Gramm	Lautenberg
Cochran	Grams	Leahy
Cohen	Grassley	Levin
Conrad	Gregg	Lieberman
Lott	Nunn	Simon
Lugar	Pell	Simpson
Mack	Pressler	Smith
McCain	Pryor	Snowe
McConnell	Reid	Specter
Mikulski	Robb	Stevens
Moseley-Braun	Rockefeller	Thomas
Moynihan	Roth	Thompson
Murkowski	Santorum	Thurmond
Murray	Sarbanes	Warner
Nickles	Shelby	Wellstone

So the amendment (No. 2962) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUMPERS MOTION TO COMMIT

The PRESIDING OFFICER. The order of business is the Bumpers motion to commit to the Committee on Finance with instructions.

Mr. EXON. Mr. President, I yield 1 minute to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, in 1981, this body, all but 11 Senators, voted for a massive tax cut on the argument that it would help balance the budget. Eight years and $2 trillion later, we all knew we had made a massive mistake. We are about to repeat it, though not quite the magnitude of that.

This amendment simply says what my good friend from New Mexico, the chairman of the Budget Committee, said on May 30 of this year, that there is one thing our side has agreed on: There will be no tax cut until we balance the budget.

Senator DOMENICI was right on May 30, and to vote a different way now is wrong.

The New York Times this very morning shows that a vast majority of the American people, even the wealthy who benefit most from this, are all opposed to a tax cut until we balance the budget. It is fiscal responsibility, and that is the reason we call this the fiscal responsibility amendment.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute.

Mr. DOMENICI. Mr. President, this amendment, I think, points up the difference between the two parties. We have a balanced budget. It has been certified by the Congressional Budget Office. Once we adopt this reconciliation instruction, we will have a balanced budget. Then it is time to give the taxpayers of America some relief.

We get a $170 billion economic dividend for getting a balanced budget. What should we do with that money? Should we spend it, or should we give it back to Americans, especially families who are having difficulty raising their children because we whittled down their deduction such that they are kind of on their own?

I believe it is right when you have made savings and have a balanced

budget, according to the Congressional Budget Office, that you ought to give money back to the people and not let the dividends sit around so we can spend it. The people want to spend their own money. It happens to be theirs, not ours.

Mr. President, I move to table the Bumpers motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Bumpers motion to commit. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 505 Leg.]

YEAS—53

Abraham	Faircloth	Lugar
Ashcroft	Feinstein	Mack
Baucus	Frist	McCain
Bennett	Gorton	McConnell
Biden	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Coverdell	Inhofe	Stevens
Craig	Kassebaum	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Dole	Lieberman	Warner
Domenici	Lott	

NAYS—46

Akaka	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Jeffords	Reid
Byrd	Johnston	Robb
Cohen	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Snowe
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone
Feingold	Levin	
Ford	Mikulski	

So the motion to lay on the table the Bumpers motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BAUCUS MOTION TO COMMIT

Mr. EXON. Mr. President, according to the pending business, the next item of business is the rural restoration motion.

I yield to the Senator from Montana for 1 minute.

Mr. BAUCUS. Mr. President, the budget bill before us is a raid on rural America. It cuts the farm program and begins to eviscerate, obliterate the farm program by cutting $13.4 billion over 7 years, 25 percent cut. The budget bill cuts health care, disproportionately affecting rural America because our hospitals have so many seniors. Medicaid is cut, hurting rural America. There is already a tendency for people to leave the farm and go to the city to seek some job to survive. We here should be sensitive to rural America, not insensitive, by raiding rural America. This bill before us raids rural America, accelerates the transfer of people from rural America to the city, which is something we should not do.

So my amendment simply says to the Finance Committee, go back and restore some of these provisions that affect rural America, but still balance the budget.

I urge adoption of the amendment.

Mr. DOMENICI. Mr. President, under the proposed reforms in this bill, the Federal Government will be spending and continue to spend $64.8 billion in outlays over the next 7 years for commodity-related programs.

Farmers will benefit the most of all groups of Americans if interest rates come down because they rely most on borrowed money, as compared with any other group of business men or women in the country.

Farmers and rural America will also benefit from the capital gains reduction in this bill.

In addition, this amendment instructs the Finance Committee to make changes in programs that are not even within their jurisdiction.

Mr. President, since that makes it not germane, I raise a point of order that this motion violates the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending motion, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 53, as follows:

[Rollcall Vote No. 506 Leg.]

YEAS—46

Akaka	Feingold	Lautenberg
Baucus	Feinstein	Leahy
Biden	Ford	Levin
Bingaman	Glenn	Lieberman
Boxer	Graham	Mikulski
Breaux	Harkin	Moseley-Braun
Bryan	Heflin	Moynihan
Bumpers	Hollings	Murray
Byrd	Inouye	Nunn
Conrad	Johnston	Pell
Daschle	Kennedy	Pryor
Dodd	Kerrey	Reid
Dorgan	Kerry	
Exon	Kohl	
Robb	Sarbanes	Snowe
Rockefeller	Simon	Wellstone

NAYS—53

Abraham	Faircloth	Mack
Ashcroft	Frist	McCain
Bennett	Gorton	McConnell
Bond	Gramm	Murkowski
Bradley	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kassebaum	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Dole	Lott	Warner
Domenici	Lugar	

The PRESIDING OFFICER. On this question, the yeas are 46, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the motion falls.

Mr. ABRAHAM. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and ask unanimous consent that time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand that it is our turn for three successive amendments, and the first of those three that we have on our side will be the Social Security earnings test by Senator MCCAIN.

Will the Chair announce how much time is on these three amendments?

The PRESIDING OFFICER. Ten minutes equally divided.

The Senator from Arizona.

Mr. FORD. Mr. President, will the Senator yield for just a minute? We were looking for what these amendment are. Can we have those? It just says ''Finance Committee amendment,'' and we do not know what it is. We need a little bit of information. That was required of us last night.

I thank the Chair.

I am grateful to the Senator. I thank him.

AMENDMENT NO. 2964

(Purpose: To express the sense of the Senate regarding the need to raise the Social Security earnings limit)

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for himself, Mr. DOLE, Mr. COATS, and Mr.

NICKLES, proposes an amendment numbered 2964.

At the appropriate place in the Act, add the following:

SEC. . SENSE OF THE SENATE.—The Senate finds that

(a) The Senate has held hearings on the social security earnings limit in 1994 and 1995 and the House has held two hearings on the social security earnings limit in 1995;

(b) The Senate has overwhelmingly passed Sense of the Senate language calling for substantial reform of the social security earnings limit;

(c) The House of Representatives has overwhelmingly passed legislation to raise the exempt amount under the social security earnings limit three times, in 1989, 1992, and 1995;

(d) Such legislation is a key provision of the Contract with America;

(e) The President in his 1992 campaign document ''Putting People First'' pledged to lift the social security earnings limit;

(f) The social security earnings limit is a depression-era relic that unfairly punishes working seniors; therefore,

(g) It is the intent of the Congress that legislation will be passed before the end of 1995 to raise the social security earnings limit for working seniors aged 65 through 69 in a manner which will ensure the financial integrity of the social security trust funds and will be consistent with the goal of achieving a balanced budget in 7 years.

Mr. MCCAIN. Mr. President, this amendment signals the Senate's intent to move forward expeditiously on reforming the earnings test. The majority leader has let it be known that he will move this matter soon, as early as next week depending on the action of the House of Representatives. I appreciate the leadership of the majority leader, and I also want to thank former Finance Committee chairman, Senator Packwood, and Senator MOYNIHAN for their help and for their support on this matter.

Additionally, I want to note that the House of Representatives today passed a similar amendment by the overwhelming vote of 414 to 5.

Mr. President, the Social Security earnings test was created during the Depression era when senior citizens were being discouraged from working. This may have been appropriate then when 50 percent of Americans were out of work. But it is certainly not appropriate today. It is not appropriate today when seniors are struggling to get ahead and survive on limited incomes. Many of these seniors are working to survive and make it on a day-to-day basis.

Mr. President, most Americans are amazed to find that older Americans are actually penalized by the Social Security earnings test for their productivity. For every $3 earned by a retiree over the $11,160 limit, they lose $1 in Social Security benefits. Due to this cap on earnings, our senior citizens, many of whom are existing on low incomes, are effectively burdened with a 33-percent tax on their earned income.

I want to point out this only applies to people who have to go to work. If someone is very rich and has a trust fund, pension, stocks, all of the gain that is accrued from that is not taxable. It only applies to low-income and middle-income Americans who in our society today have to go to work tragically for a broad variety of reasons.

Mr. President, there has been a lot of partisanship back and forth today, some regrettably and some of it is a natural happenstance when a revolution is taking place because that is basically what this is all about.

Let me point out that I heard a lot of pleas and cries in behalf of seniors on the part of friends on the other side of the aisle. In 1987, I came to the floor of this body and sought repeal of the Social Security earnings test. There was a hearing in the Finance Committee chaired by former chairman and former Secretary of Treasury Bentsen.

In 1988, I brought this amendment to the floor, and in 1989 I brought it to the floor, and in 1990, 1991, 1992, 1993, and 1994. And each time on the other side of the aisle it was turned down.

I am happy to say that now this side is in the majority. In both bodies we will repeal the onerous and outrageous earnings test which on the other side they failed to do.

Mr. President, if I sound a little excited about that, it is because we have had a lot of rhetoric today about how cruel Members on this side of the aisle are to senior citizens.

The best way, the most effective way that we can help senior citizens today is for those who seek to go to work and have to work for a broad variety of reasons to be allowed to keep their earnings. And, by the way, it would only be raised up to $30,000.

Mr. President, there is a couple who are friends of mine who live near me in northern Arizona. They are low-income Americans. They have a son who had prostate cancer. The son has a daughter that he has to take care of in a home. My friend's wife had to go back to work in order to support her son and her granddaughter. She went to work in a hospital where she has been working. She dramatically increased her hours because she is now helping her son who had prostate cancer and was out of work. And she gets what? She found out 2 weeks ago that she owes the Federal Government $1,200 because she exceeded the $11,000 limit.

So her ability to care for herself, her husband, her son and her granddaughter is dramatically penalized because this earnings test puts her in the highest tax bracket of anyone in America, amongst the richest.

Mr. President, as I said before, there is also a myth that repeal of the earnings test would only benefit the rich. Nothing could be further from the truth. The highest effective marginal rates are imposed on the middle-income elderly who must work to supplement their income.

Mr. President, finally it is simply outrageous to continue two separate policies that both keep people out of the work force who are experienced and who want to work. We have been warned to expect a labor shortage. Why should we discourage our senior citizens from meeting that challenge?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. Mr. President, in order to move things along, we have a great amount of work to do, we yield back our allotted 5 minutes.

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent that editorial endorsements from several newspapers, and also from various organizations, ranging from the Seniors Coalition to the National Council of Senior Citizens, and others, be printed in the RECORD.

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

EDITORIAL ENDORSEMENTS

Chicago Tribune: The skill and expertise of the elderly could be used to train future workers, while bringing in more tax dollars and helping America stay competitive in the 21st century.

Los Angeles Times: As the senior population expands and the younger population shrinks in the decades ahead, there will be an increasing need to encourage older workers to stay on the job to maintain the nation's productivity.

The Baltimore Sun: The Social Security landscape is littered with a great irony: While the program is built on the strength of the work ethic, its earnings test actually provides a disincentive to work . . . One consequence of this skewed policy is the emergence of a gray, underground economy—a cadre of senior citizens forced to work for extremely low wages or with no benefits in exchange for being paid under the table.

Dallas Morning News: Both individual citizens and society as a whole would benefit from a repeal of the law that limits what Social Security recipients may earn before their benefits are reduced.

The San Diego Tribune: The benefit-reaction law made some economic sense when Social Security was established in the 1930s and the government wanted to encourage the elderly to leave the labor force and open up jobs for younger workers. But with declining birth rates and the nation's need for more, not fewer, experienced workers, the measure is bad for the nation as well as its older workers.

Wall Street Journal: The punitive taxation of the earnings limit sends the message to seniors that their country doesn't want them to work, or that they are fools if they do.

The New York Times: . . . it is not wrong to encourage willing older adults to remain in the work force.

The Orange County Register: Indeed, repealing the tax might actually increase revenues. More people would be working, paying more taxes of all kinds, including the Social Security tax. If our government bureaucrats want us to keep paying their salaries, the least they can do is make it possible to work in the first place.

Houston Post: Equity and common sense demand that this disincentive to work be scrapped.

The Cincinnati Enquirer: No American should be discouraged from working, as long as he wants to and is physically able to do so.

The Indianapolis Star: On the face of it, the game appears rigged in favor of those who stop working at 65 and against those who keep working, in favor of well-to-do retirees and against middle- and low-income retirees who need a part-time job to help with expenses.

Forbes: Moreover, people are living longer; the economy is hurt when artificial barriers block the full use of our most productive asset, people.

Detroit News: Work is important to many of the elderly, who are living longer. They shouldn't be faced with a confiscatory tax for remaining productive.

[From the Los Angeles Times, Nov. 17, 1991]

WHY PUSH THEM OUT OF WORK?

CONGRESS SHOULD ELIMINATE OUTMODED SOCIAL SECURITY EARNINGS TEST

There are more than 40 million Americans age 60 or older, many of whom are eager to work beyond normal retirement age but can't afford to, thanks to an outmoded earnings test applied to Social Security recipients. The Senate, in a provision attached to the extension of the Older Americans Act, has voted to eliminate this punitive restriction. The measure now goes to a congressional conference committee, where House conferees will have a chance to accept the Senate's provision. They should do so, and the House should adopt it. Millions of workers would be the better for it, and so would government and society.

Current law says that people between the ages of 65 and 70 who draw Social Security and who earn more than $9,720 a year must lost $1 in Social Security benefits for every $3 they earn over that limit. This rule effectively applies to those workers a 33% marginal tax rate—higher than anyone else must pay—but there is more. Sen. John McCain (R-Ariz.) says that when federal, state and other Social Security taxes are factored in, the tax bite approaches nearly 70%. If that isn't age discrimination, McCain suggests, nothing is.

There is no earnings ceiling for Social Security recipients age 70 or older. It's nonsensical to have one for those younger. Maintaining the arbitrary ceiling and taxing away 33 cents out of every dollar earned from those who exceed it drives millions of productive workers into forced retirement. The nation's economy is not so robust that it can afford to lose willing, able and experienced employees. Federal and state treasuries are not so flush they can pass up the revenues that could be had from taxes on the higher earnings of older workers.

Why chase people who want to work out of the labor force? Why make this pool of talent lie stagnant? The earnings ceiling is an echo of an earlier time when it was argued that older workers had to be pushed into retirement to make jobs available for new entrants into the work force. Demographics and the needs of the economy have changed. Millions of those older workers want to go on working without being punished if they earn too much. The time has come to let them do so.

[From the Arizona Republic, Nov. 17, 1991]

AGE DISCRIMINATION: LIFT EARNINGS CAP

Congress dotes on its anti-discrimination record. How then to explain why its continuing prejudice is targeted at a particular minority?

The earnings cap on Social Security benefits is a form of discrimination. ''The earnings test translates into an effective tax burden of 33 percent,'' Sen. John McCain told a Senate committee. ''Combined with federal, state and other Social Security taxes, it can amount to a stunning tax bite of nearly 70 percent.''

The cap on earnings—set at $9,720 for retirees age 65 to 70—is ''age discrimination of the worst kind,'' the senator said, and that ''is plainly wrong.'' For every $3 earned above the cap, seniors lose $1 in benefits.

As Mr. McCain points out, it is foolish to maintain a policy that keeps people with experience and a willingness to apply their skills out of the work force, especially when the country faces economic stagnation and declining international competitiveness.

Punishing people for working is wrong in an even more fundamental way. It violates an American principle known as the work ethic. Surely it is poor social policy to maintain disincentives to productive labor. Better to let seniors who have something to contribute slip back into harness. Besides, many of them need the extra income.

The Bush administration argues that eliminating the earnings test would cost $3.9 billion in fiscal 1992. Sen. McCain disagrees. He argues that lifting the cap would save money, both through the collection of additional taxes on the earnings of seniors and administrative savings.

A Senate-passed measure to lift the cap is now in a conference committee, where it must be reconciled with a House-approved bill that would not eliminate the earnings penalty. If the House cares anything at all about fairness, it will end the discrimination now in place and free older Americans to work.

[From the Chicago Tribune, Jan. 5, 1991]

END SOCIAL SECURITY EARNING CURBS

(By U.S. Rep. J. Dennis Hastert)

When a country doesn't support its stated goals by adopting policies to achieve those goals, its aims become unattainable. Such is the case with our goal of restoring U.S. competitiveness in the global market. We say we want to regain our competitive edge, yet we follow obsolete policies that preclude us from fielding the most productive work force possible.

The most pernicious example of this practice is the continued application of the Social Security Earnings Test, a Depression-era relic that penalizes senior citizens who work after they retire. By forcing seniors to, forfeit one-third of their Social Security benefits after they earn more than a ridiculously low amount, the Earnings Test tells the elderly we no longer value their expertise and experience.

Seniors between 65 and 70 who earn more than $9,360 are slapped with a 33 percent penalty. In short, the government siphons $1 in penalties for every $3 a productive senior earns over the limit. When coupled with federal taxes, seniors who earn a penalty $10,000 a year are faced with a 56 percent marginal income tax rate—twice the rate of millionaires.

The Social Security Earnings Test is age discrimination, pure and simple. Not only does it discriminate against one age group, it also afflicts the seniors who need extra income the most. Seniors can receive stock dividends and interest payments without losing Social Security benefits, but those who work at low-paying jobs to make ends meet are punished for attempting to remain financially independent.

At a time in our nation's history when the operative buzz word is ''competitiveness,'' policymakers are hypocrites when they preach the gospel of working harder while retaining outdated policies that strip our labor force of productive and experienced workers. Just as business leaders must modernize their factories, congressional leaders must update public policy.

The Social Security Earnings Test was instituted in the 1930s to discourage seniors from working and make room for younger Americans to enter the work force. Whether this was a good idea at the time is hardly relevant; as the U.S. population ages, seniors are becoming an increasingly important segment of the labor force. The government should support them, rather than financially penalize them, for remaining active and productive.

By the end of this decade, there will be 1.5 million fewer members of the work force aged 16 to 24. Coupled with this trend is the fact that there is a sharply increasing number of older persons relative to the working population. To respond to these challenges, the United States needs to attract more people to participate in the labor force.

I have introduced legislation that would help our businesses adapt to the demands of the international marketplace by making our work force more productive. My bill, H.R. , the Older Americans Freedom to Work Act, has a majority of House members as co-sponsors, as well as considerable support in the Senate (Sen. Rudy Boschwitz, R-Minn., introduced the Senate version). But many in the House leadership remain opposed to it. The Ways and Means Committee chairman, Rep. Dan Rostenkowski (D-Ill.), and Social Security subcommittee chairman, Rep. Andrew Jacobs (D-Ind.), are laboring under the incorrect assumption that repeal of the Earnings Test will lead to a shortfall in government revenue, when exactly the opposite is true.

If the Earnings Test is repealed, more seniors—up to 700,000, according to the National Center for Policy Analysis, an economic research group—would rejoin the work force, expanding the tax base and increasing the amount of tax revenue the government receives from these returning workers and taxpayers. As a result, the NCPA reported, the annual output of goods would increase by at least $15.4 billion.

The NCPA, in concert with the Institute for Policy Innovation, another research group, revealed these findings in a recently published report, ''Paying People Not to Work: The Economic Cost of the Social Security Earnings Limit.''

Repealing the Earnings Test would also be a federal revenue gainer, the groups reported. ''Government revenue would increase by $4.9 billion, more than offsetting the additional Social Security benefits that would be paid,'' the report stated.

The few remaining naysayers who continue to oppose repeal of the Earnings Test base their opposition on the belief that Social Security is an insurance policy. Specifically, Jacobs argues that benefits should be allocated only to those who are ''retired''—and if someone is still working, and hence not ''retired,'' he or she should not receive full benefits.

This reasoning ignores the difficulty seniors encounter in attempting to survive solely on Social Security or working at a job; seniors frequently need both to make ends meet. Because economic realities necessitate more money than Social Security or, say, a job at McDonald's provides, the Earnings Test must be repealed. Jacobs is simply out of step with the realities of the cost of living in the 1990's.

It is disturbing that two powerful committee chairmen are in a position to block landmark legislation that has the official support of a majority in the House.

It would be one thing to have the Older Americans Freedom to Work Act deliberated on the House floor and tabled. At least then the merits—or what some believe to be the lack thereof—would have been put in the open and subject to public inspection.

But a powerful minority of House leaders are doing everything in their power to make sure this bill is never debated on the House floor. Because of their refusal to allow deliberation on the proposed repeal of the Earnings Test, one can only conclude that they are fearful open discussion would lead to an even greater groundswell of public support and a demand that Congress move swiftly to approve the bill.

As our country takes steps to make itself more economically competitive for the 21st Century, it is clear that we will have to use every available resource, especially in the U.S. work force. Remaining competitive in the next century requires adopting policies that foster economic vibrancy and doing away with outdated policies that inhibit it. Repealing the Social Security Earnings Test will both encourage a large portion of the population to remain productive and help bolster the economy. The realities of our economic situation demand that we do so.

AIR FORCE SERGEANTS ASSOCIATION,
INTERNATIONAL HEADQUARTERS,
Temple Hills, MD, January 8, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC

DEAR SENATOR MCCAIN: The Air Force Sergeants Association strongly supports your amendment to S. 243 to repeal the Social Security Earnings Test. We have written to the House and Senate conferees expressing this support and are ready to assist in any way possible.

Sincerely,

JAMES D. STATON,
Executive Director.

THE SENIORS COALITION,
Washington, DC, January 26, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: I wanted to take just a moment to thank you for introducing the Senate measure to repeal the Social Security Earnings Test.

The Seniors Coalition has made this issue the cornerstone of our legislative agenda over the past three years. We have worked closely with Rep. Dennis Hastert in the House of Representatives and will continue to work with the House Republican Conference now that the Contract With America addresses the earnings limit.

I am enclosing for your information our Issue Paper on the earnings limit, as well as my recent testimony to the Ways and Means Social Security Subcommittee. The Seniors Coalition is ready to assist you in any way possible to ensure the success of your measure. This issue is very important to our two million members and they love being asked to get involved with legislative issues.

Please feel free to contact may assistant, Kimberly Schuld at (703) 591–0663 if there is anything we can do to help.

Sincerely,

JAKE HANSEN,
Vice President for Government Relations.

WALT DISNEY WORLD CO.,
June 9, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Building, Washington, DC.

DEAR SENATOR MCCAIN. We fully support your proposal to eliminate the Social Security Earning Limit for senior citizens age 65 to 69. Furthermore, we favor additional relief for senior citizens in the age group 62 to 64 who are faced with an even more stringent limit on their earnings.

In today's society, Social Security is a supplement to a senior's income which is traditionally pension and investments. Unfortunately, some must continue to work to maintain a quality of life that is becoming evermore expensive.

Our opinion is formulated by the following compelling issues:

Our nation is faced with a shrinking labor supply for one of the fastest growing sectors of the economy—the service sector. Many seniors are fully capable of and interested in filing these openings.

As stated in your fact sheet, we should not have a system that has built-in disincentives that inhibit seniors from working.

The current ''cap'' of $8,040 does not permit a senior in the 62–64 age group to work in a minimum wage ($4.25/hour) job for an entire year without incurring a penalty on the last 10% of their income.

Seniors represent a growing part of our population who possess skill and attributes that employers are seeking. Seniors offer experience and an excellent work ethic to an employer.

Also, in light of the health care reform issue that is on everyone's mind, by raising the earnings ''cap,'' this will allow seniors to avoid the Catch–22 of not being able to work enough hours to qualify for health care at most corporations.

In conclusion, we believe that seniors should always be able to work in a minimum wage paying job full time (40 hours per week) without being penalized. To ensure that this is not a future problem, we recommend that the Social Security Earnings Limit be indexed at 25% above the annual full time income based on prevailing federally mandated minimum wage. Currently, that would increase the cap to $11,050. Internally, this would allow us to hire a senior, have them work 30 hours per week, and penetrate the rate range to the second step before reaching this new ceiling.

Thank you for the opportunity to express our views on this important issue.

Sincerely,

DIANNA MORGAN.

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, DC, September 9, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: We urge your support of an early and positive vote for S. 3008, the Older Americans Act (OAA) reauthorization. We believe that further delay in reauthorizing the Act is a disservice to the millions of seniors and their families who depend on vital OAA programs.

The National Council of Senior Citizens, comprised of five million seniors active in five thousand clubs and Councils, has made passage of the OAA reauthorization one of our highest priorities for this Session. The Council has historically supported a sound Social Security retirement test amendment has caused a yearlong delay in final passage of the OAA. The two issues should be separated now and support of S. 3008 is the best way of resolving this matter.

Inaction on S. 3008 will be the cause of further loss of resources and a weakening of the national commitment to meet the needs of older persons at risk. We trust that we can count on your vigorous support of S. 3008.

Sincerely,

LAWRENCE T. SMEDLEY,
Executive Director.

COUNCIL OF JEWISH FEDERATIONS,
Washington, DC, July 23, 1992.

DEAR SENATOR: On behalf of the Council of Jewish Federations, I am writing to urge the immediate passage of the reauthorization of the Older Americans Act, S3008. Millions of older citizens depend on the programs funded in this Act for community and social services, nutrition programs, senior centers, legal assistance, homebound care and assistance, research and demonstration, and employment opportunities.

As a network of over 200 Jewish Federations and their affiliated social service agencies, we are charged with the responsibility for providing thousands of elderly people with a life of quality. The Older Americans Act, with its coordination between local, state, and federal agencies, enables us to do this.

The Older Americans Act, originally enacted in 1965, has been a framework for providing vital nutritional and social services to the elderly community for over 25 years. At a time when seniors are growing as a population, the Older Americans Act should not be pulled from them. By passing the Older Americans Act the Senate will move one step further along in the process necessary to ensure that the elderly may continue to receive the quality care they need.

We urge you to pass this critical legislation immediately.

Sincerely,

MARK E. TALISMAN,
Director.

OLDER WOMEN'S LEAGUE,
Washington, DC, September 9, 1992.

DEAR SENATOR: On behalf of the Older Women's League, I am writing to urge you to pass the Older Americans Act, S.3008, before Congress adjourns.

I cannot stress strongly enough how important it is to pass the Older Americans Act. The reauthorization of this legislation and its programs is critical to providing continuing supportive services for millions of older Americans, most of whom are low-income and women. Without final passage, important new programs cannot be initiated and the White House Conference on Aging cannot take place. Amendments of particular importance to OWL are those requiring data collection on long-term care workers, and supportive services for family caregivers.

From its inception, the Older Women's League has sought changes in Social Security that would make the system more equitable for women. While OWL has endorsed the Social Security provisions attached to the OAA conference bill passed by the House of Representatives, we believe that these and other changes to Social Security should be dealt with in a more appropriate legislative measure. We hope to continue working with Congress next year to make Social Security equitable for beneficiaries, particularly women.

Passage of the Older Americans Act is long overdue. The Act is the cornerstone of services for this country's most vulnerable older population. Congress must reaffirm its commitment to assure the quality of life sought for older Americans as declared in Title I of the Act.

Sincerely,

LOU GLASSE,
President.

NATIONAL COUNCIL ON THE AGING, INC.,
Washington, DC, September 9, 1992.

DEAR SENATOR: The National Council on the Aging, Inc. urges you to support for immediate Senate action to reauthorize the Older Americans Act, S. 3008.

Today, we are joining forces with many other national organizations to seek your help in passing a clean Older Americas Act.

For the past two decades, the OAA has provided vital services including congregate and home-delivered meals, transportation, information and referral, advocacy assistance, visiting and telephone reassurance, homemaker services, legal and employment services.

Failure to take action on the reauthorization means that none of the many significant improvements in OAA services crafted after long Congressional scrutiny will be initiated. Inaction has already had an effect on the current appropriation process in the House.

The delay in passing the OAA jeopardizes those services that allow millions of older Americans to maintain their independence and dignity. This year's amendments, many of which enhance services under the Act, cannot be implemented until it passes. Failure to pass the reauthorization will create a major rift in the covenant between Congress and the older population of our country.

I cannot stress strongly enough the importance of passage of S. 3008, the Older Americans Act at this time.

Sincerely,

DR. DANIEL THURSZ,
President.

NATIONAL ASSOCIATION OF AREA AGENCIES ON AGING,
Washington, DC, September 9, 1992.

JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the members of the National Association of Area Agencies on Aging, I am writing to urge you to take immediate action to pass the Older Americans Act reauthorization legislation, S. 3008. Thousands of older Americans in Arizona and millions of elders across our nation depend on the services provided under the Act—information and referral, supportive services, nutrition programs, transportation, in-home care and assistance, and the long-term care ombudsman program.

Senate inaction on S. 3008 is placing low-income, minority, and frail elders in jeopardy. Because of resulting funding problems, older persons are being denied services, there are increases in service waiting lists, and higher levels of unmet need.

As you are probably aware, passage of the Older Americans Act has been stalled by provisions to amend the exemption level of the Social Security earnings test. For the past nine months Congress has been unable to reach an agreement on the earnings test issue. We strongly believe it is time Congress moved beyond this impasse by decoupling the earnings test from the Older Americans Act—by passing S. 3008. Further delay will do a disservice to older persons who depend on Older Americans Act services. We, therefore, urge you to take the necessary steps to obtain immediate passage of this crucial legislation.

Sincerely,

CHERYLL SCHRAMM,
President.

NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES,
Washington, DC, September 9, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The National Association of Retired Federal Employees (NARFE), and its nearly 450,000 members, is greatly concerned that the Older Americans Act has not yet been reauthorized.

Today, we are joining forces with many other national aging organizations to seek your help in passing a clean Older Americans Act, S. 3008. Unless the Act is reauthorized soon, we fear that service programs that benefit low-income, minority and frail elders will be jeopardized.

We hope that you will join with us to urge passage of S. 3008 so that Older Americans Act programs for community and supportive services, nutrition programs, senior centers, legal assistance and elder opportunities serving millions of older Americans will be able to continue uninterrupted.

Sincerely,

HAROLD PRICE,
President.

NATIONAL ASSOCIATION OF STATE UNITS ON AGING,
Washington, DC, August 28, 1992.

DEAR SENATOR MCCAIN: The National Association of State Units on Aging urges your support for immediate Senate action to reauthorize the Older Americans Act, S. 3008. While the Older Americans Act itself has received almost unanimous support on the floor of both Houses, it has been held captive for months by a host of seemingly never ending congressional procedural roadblocks and controversial and non-germane amendments.

Failure by the Senate to act swiftly will result in an unconscionable reduction in funds available across the nation to provide meals, transportation, in-home services, jobs, advocacy for nursing home residents, elder abuse prevention and similar, often life-sustaining, services to millions of low-income and frail older persons.

NASUA's members are the nation's 57 state agencies on aging, designated by Governors and state legislatures to represent and serve older persons in their states. They have tried to explain to older persons that these frustrating delays do not indicate a lack of congressional support for this program which is so important to them. However, their questions have turned to anger, their frustration to disillusionment.

Once again, we urge the Senate's immediate passage of S. 3008. Swift action can still avoid unnecessary and unwarranted reductions in Older Americans Act service funds and rescue literally years of congressional work to strengthen the Act from being lost when this Congress adjourns in a few short weeks.

Thank you for your consideration of our views on this issue of critical importance to millions of older persons.

Sincerely,

DANIEL A. QUIRK,
Executive Director.

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, October 25, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Last year, Congress authorized a Commission to study the Social Security Notch Inequity as a way to examine the merits of the arguments for and against legislative action.

The National Committee welcomed the opportunity this Commission presented to adjudicate the merits of this long standing issue.

The Congress is to be congratulated for its efforts to bring this Commission to life.

This year, the leaders of both parties in both Chambers have made all of the eight Congressional appointments.

This month as a part of the Labor/HHS Appropriation Conference report, Congress appropriated $1.8 million so that the Commission can carry out its mandate and report back by the end of the year.

As soon as the President appoints his four members and designates a Chairperson, the Commission will proceed.

I hope that you will agree that the Notch Commission, when activated, will study the issue and note findings which will produce a recommendation. Please do your part to move this Commission into action.

Sincerely,

MARTHA A. MCSTEEN,
President.

THE RETIRED ENLISTED ASSOCIATION,
Alexandria, VA, January 14, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell SOB, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the more than 54,000 members of The Retired Enlisted Association (TREA) it is my pleasure to offer TREA's support to you in your efforts to repeal the Social Security Earnings Test.

We of TREA appreciate your willingness to address what we believe is a penalty imposed upon older Americans having a strong work-ethic.

Should you or a member of your staff have any specific tasking suggestions for this office on this issue, please don't hesitate to contact me.

Very respectfully,

JOHN M. ADAMS,
MCPO, USN (Ret.),
Director of Government Affairs.

Mr. DOMENICI. Mr. President, I understand this amendment is stacked now. We do not vote on it now. We go next to another Republican amendment. We had a change in what our next amendment would be. But the Democrats have been advised. This will be the Helms amendment. Senator HELMS is ready on the floor, and they have a copy of it on the other side.

AMENDMENT NO. 2965

(Purpose: To allow senior citizens to continue to choose their doctors)

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 2965.

On page 461, line 13, after the period, insert the following:

''(3) POINT-OF-SERVICE COVERAGE.—If a Medicare Choice sponsor offers a Medicare Choice plan that limits benefits to items and services furnished only by providers in a network of providers which have entered into a contract with the sponsor, the sponsor must also offer at the time of enrollment, a Medicare Choice plan that permits payment to be made under the plan for covered items and services when obtained out-of-network by the Individual.''

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. HELMS. Mr. President, I am sure that I am not alone in my strong feelings that the senior citizens of America must not be deprived of their right to choose their own doctors.

The text of my amendment has been modified to address both my strong desire to preserve the right of the senior citizens and the concerns of a number of Senators relating to options.

The pending amendment stipulates that if a Medicare choice plan offers a closed plan HMO within the Medicare margin, that plan must also offer a point-of-service plan enabling senior citizens to exercise their freedom of choice regarding the selection of physicians.

Three summers ago, I had a little encounter with some remarkable medical doctors, who are also my personal friends, in my hometown of Raleigh. I was at that time, of course, free to

choose the team of surgeons who performed my heart surgery.

The point is that all senior citizens enrolled in Medicare should have the same choice that I had. And the pending amendment will enable senior citizens to preserve their right to choose their doctors.

Most Americans, whether their health is insured by private firms or by Medicare, enjoy their freedom to decide which medical professionals will perform their care and treatment. In reforming Medicare, Congress must make sure that senior citizens know their options and can choose their doctors and other medical providers instead of being required to accept somebody else's lineup of physicians and surgeons.

Mr. President, the Senate is considering major reforms to save Medicare and prevent its being pushed over the cliff. Medicare must be reformed before it goes bankrupt. We agree on that. Otherwise, the Medicare trust fund will be flat broke when the 21st century rolls around just a few years hence.

America's senior citizens—and I am one of them—depend on the health care coverage provided by the Medicare system, and those of us in Congress have a duty to make sure that they will not be forced to give up their right to choose their doctors. It is vital to their future security that our senior citizens retain this right. The power to choose will place senior citizens firmly in control of their health care.

Senior citizens may be enticed to join an HMO because they will gain coverage for prescription drugs and eyeglasses and hearing aids—coverages not presently provided by Medicare.

However, without some moderating legislation, senior citizens could very well find themselves locked into coverage that limits them to services provided by HMO-affiliated doctors, other professionals and hospitals. No longer would senior citizens have the freedom to choose their own doctors.

So, Mr. President, these are the reasons why I am introducing this amendment, to make sure that all Medicare-eligible Americans who choose to enroll in an HMO know their options of choosing the closed panel HMO or the point-of-service plan offered by the same insurance company.

Mr. President, consider if you will the predicament of a patient who requires heart surgery, and whose HMO will not approve the cardiologist with whom the senior has built up a longstanding relationship. My amendment will enable women being treated for breast cancer to have more options when choosing a lower cost plan that will allow them to continue to see the specialists familiar with them and their conditions. For this reason, more than a hundred patient advocacy groups have voiced their support for this amendment.

Point-of-service plans provide a safety valve to protect seniors who find themselves in the position of needing to see a doctor of choice. A point of service plan enables patients to see physicians and specialists inside and outside the managed care network. If seniors citizens are satisfied with the care they receive within the network, they will feel no need to choose outside doctors and specialists.

Mr. President, CBO has given me repeated assurances that a built-in point-of-service feature—the technical term for freedom of choice—would not increase the cost of Medicare. In fact, in testimony before the Senate Budget Committee, CBO stated that ''the point of service option would permit Medicare enrollees to go to providers outside the HMO's panel when they wanted to, and yet it need not increase the benefit costs to HMOs or to Medicare. . . .''

Moreover, the actuarial firm of Milliman and Robertson concluded that depending on the terms of the plan and a reasonable cost sharing schedule, there should be no increase in cost to the HMO. In fact, there could actually be a savings.

The fastest-growing health insurance product is a managed care plan that includes the point-of-service feature. In fact, in 1993, 61 percent of all HMOs offer a point of service option.

Building a point-of-service option into health plans under Medicare will not interfere with the plan's ability to contain cost, nor will it limit their efforts to encourage providers and patients to use their health care resources wisely. It simply will ensure that health plans put the patient's interest first.

We can save Medicare. We can extend its benefits while lowering the towering costs that beset us today. And my amendment, we can also preserve a basic American freedom to choose one's own doctor.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask unanimous consent that at the expiration or yielding back of debate time on each amendment, the amendment be laid aside to consider the next amendment in order, and that when the next order of stacked votes begins, each amendment be voted on in the order in which it was offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

Mr. EXON. Mr. President, I suggest the absence of a quorum and that it be charged to the 5 minutes on our allocated time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

Mr. DOMENICI. Mr. President, could you hold up on the quorum?

The PRESIDING OFFICER. Does the Senator withhold?

Mr. EXON. Be glad to.

Mr. DOMENICI. Are we charging time because we have not given you this amendment?

Mr. EXON. We are having a great deal of difficulty. Since you have changed the order of offering amendments, our Senator was not alerted, and we are having trouble getting him here.

Mr. DOMENICI. Would you like to have 5 minutes and charge it to no one while the Senator gets down here?

Mr. EXON. I would appreciate that.

Mr. DOMENICI. We are just going to do that.

I ask unanimous consent we go into a quorum call for 5 minutes and that it not be charged to the bill or to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

Mr. EXON. I thank my friend for his courtesy.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I have a very brief, 2-minute colloquy with Senator HELMS.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. INHOFE. I say to Senator HELMS, just briefly, there was a little evolutionary process that we went through with this amendment. I think the amendment is very good, and I am in support of the amendment. Initially the Senator had it that under a managed plan, if a person wanted to leave the managed plan in one area of specialty, there was a split between the additional costs, if there were additional costs, of 70–30 percent. My suggestion in talking with the Senator and with his staff was it might be a better idea if we had a managed plan that allowed the market to take care of that differential so that if an individual went into a managed plan and at a later date wanted to go to another specialist, that individual would pay the differential himself so that the patient would have the choice of any practitioner he wanted to use and yet the savings of the managed plan would be effected.

My question would be, does the Senator think that perhaps this might avoid a duplication of all kinds of actuarial calculations, just to have one? And maybe we could talk about this or bring this up during the conference.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. The Senator's suggestion was excellent, and as he knows we undertook to adjust and modify the amendment to conform with the Senator's excellent suggestion.

Now, the HMO may set up a cost sharing plan in the manner that the

Senator from Oklahoma suggested. A plan may require that the senior citizen pay up to 100 percent of the difference between what a network doctor would charge and what the HMO would pay for the doctor. And that is, of course, one of the many options.

My amendment is intentionally silent as to how an HMO should set its cost sharing schedule, but as the Senator has suggested, HMO's could set deductibles and other specific cost sharing arrangements.

So I commend the Senator on his suggestion. The modified version of the amendment is at the desk.

Mr. INHOFE. I thank the Senator from North Carolina.

I thank the Chair.

I would like to have a chance to look at that. I think we all want to accomplish the same low cost and choice.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. INHOFE. I thank the Senator. I thank the Chair.

Mr. HELMS. I give the Senator a copy of the modified amendment which is now pending.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Now, Mr. President, could I get back to understanding where we are. We were on a 5-minute kind of recess waiting for the Democrats to have an opportunity and then we got a discussion going, which I think was good, for the record. Now where are we parliamentarywise?

The PRESIDING OFFICER. The Senator from Nebraska has 5 minutes remaining on his time on the amendment.

Mr. EXON. Mr. President, I thank my friend and colleague.

I yield back the 5 minutes of time that was allotted to us in the interest of conserving time and moving ahead.

Let me say the next amendment that we have now, which we do not have, is the amendment to be offered by Senator BROWN, as I understand it. We are having a great deal of difficulty with this shifting back and forth, trying to accommodate an awful lot of people. We do not mind accommodating people, but it is very difficult for us to make a determination on these things and get the proper people here the way we are receiving the amendments, or not receiving them, before they are introduced.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. DOMENICI. Now, I say to Senator EXON, I am willing to accommodate whichever way he would like. We are not ready with the amendment that we styled for, the Finance Committee amendment. That is being worked on now. I mean, that is just a matter of fact. We cannot bring it until it is done.

Mr. FORD. Mr. President, would the Senator yield for a question?

Mr. DOMENICI. Of course.

Mr. FORD. We have a Brown amendment, and Senator BROWN is not even on the list of 17 given to us. And the first four that were given to us——

Mr. DOMENICI. He is No. 17.

Mr. EXON. That is a question mark, yes.

Mr. FORD. BROWN is a question mark?

Mr. DOMENICI. We never thought he was a question mark.

Mr. FORD. That is a question mark on the list the Senator gave to us?

Mr. DOMENICI. Yes.

Mr. FORD. Now, am I to understand that there will only be 10 out of the 17 that the Senator will give us?

Mr. DOMENICI. Yes. There are only going to be 10 that we will have 5 minutes on a side. Any that are left over go into the——

Mr. FORD. Third tier.

Mr. DOMENICI. The third tier with no time.

Mr. FORD. The only thing we have on the Brown amendment is a question mark?

Mr. DOMENICI. Yes.

Mr. FORD. We just got it. We do not know who to go to here or to have debate or if we want to even debate. This is getting completely out of hand, and we are not doing it properly. We are not being fair to either side. I think that we should stop now and go back and get it in order. And we will have ours. You had the first three, and then we get one, and we can tell you who that is and what it is about.

But I think we ought to take a few minutes, get them in order so we will know and we can have a decent 5-minute debate on each amendment on the floor.

Now, I think the Senator from New Mexico agrees with me because he has been a little bit frustrated by not being able to get them in the order in which he told me that we were going to get them.

So, Mr. President, I urge that we just take some time to get the amendments, because we do not know what the Senator from Colorado is going to offer, except the question mark.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, may I suggest in the interest of an orderly process—I already yielded back 10 minutes of our time, which still holds—therefore, I would suggest possibly it might be a good idea to take a 15-minute quorum call without being further charged to each side, and to come up with an orderly process so we can move expeditiously ahead.

Would the Senator from New Mexico respond?

Mr. BROWN. Will the Senator yield?

Mr. DOMENICI. Mr. President, I am going to yield.

Yes, I say to Senator BROWN, I will be pleased to yield.

Mr. BROWN. I did not mean to interfere. I think the distinguished Senator from Kentucky raises a very valid point. As far as I am concerned, I would be happy to limit my remarks to 1 minute and then to defer for a response time, which would give the distinguished Senator some additional time to review it. I think this is very straightforward.

Mr. FORD. We do not even know what it is yet.

Mr. BROWN. I delivered a copy.

Mr. FORD. We just now got it.

Mr. BROWN. I will try to accommodate any way I can.

Mr. DOMENICI. Mr. President, first, let me say we are in very good shape, comparatively speaking. So, I hope nobody is taken in by my exaggerations, or perhaps the exaggerations of the other side, on how muddled we are. We are not muddled at all. We were going to offer a Finance Committee amendment which is a very important amendment. We have been very forthright. It is not ready.

Now, having said that, we do not have your No. 1 amendment from the second tier. We have a statement of it. We have the Biden tax credit. We have not seen it either. And the Breaux child tax credit has been circulating around, so maybe we have seen it.

Now, what we would like to do is to have Senator BROWN go next. And, I say to the Senator, his is an important amendment, so I would ask him not to take less than 5 minutes. The Senator is entitled to explain it.

So we have that. And there are two changes. Let me see if we can help to get something done. I do not like being in this position either. So what we need to do is to get the Brown amendment. Or does the Senator have it now?

Mr. BROWN. We have copies, and both sides have it.

Mr. DOMENICI. We ask the Senator that he give us the remainder of his first three that we do not have.

We would like 15 minutes; do it the Senator's way. And we will try to get our amendments and get them to the other side. We are having some difficulty because our people did not know exactly when they were going to come up. We drew some arbitrary lines on who was in and who was out, which is tough for some of them.

So, Mr. President, I ask unanimous consent that we have a 15-minute quorum call—

Mr. WARNER. Will the Senator withhold?

Instead of the quorum call, could others address generalities in the

measure rather than just have a quorum call put in? This Senator would require about 6 minutes.

Mr. DOMENICI. Sure. Sure.

Mr. WARNER. I thank the Chair.

Mr. DOMENICI. I ask unanimous consent that we have 15 minutes without an amendment, divided equally, for any Senators, half on the other side, half on ours, that might want to speak to the bill, and that it not be charged to anything, because we are getting very short of time and it is sort of combined—our fault for the time. So let us not charge it to anyone.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I have been listening with great attention and interest to this very important debate on both sides of the aisle regarding the Balanced Budget Reconciliation Act of 1995.

I am pleased to support the budget which follows through on our promise to balance the budget by the year 2002, protect Social Security, and save Medicare from threatened bankruptcy.

While there has been much debate focused on the details of this massive package, I would like to address the promise to the American people, present and future, that this bill represents. This is not just a budget for another year. This is not a package of routine legislative changes. This is a historic commitment to America that deficit spending is about to come to an end and has been brought about during this first year of the Republican majority in the U.S. Congress.

The net result of a balanced budget will be lower interest rates for years to come and as many as 6 million new jobs. The reforms in this bill will give the States more control over critical entitlement programs that have become inflated with the Federal bureaucracy mismanagement of many years. These programs range from Aid to Families With Dependent Children to Medicaid. I strongly support these initiatives which will let the States decide how best to solve and serve the problems associated with their own citizens.

What is best for Virginia is not necessarily the same as what is best for another State. And this Balanced Budget Reconciliation Act will move more power and money out of Washington back to State governments and local communities where it properly, in my judgment, belongs.

I have received correspondence from many Virginians who support this bill because it will both balance the budget for the sake of future American families, particularly our children, Mr. President, and will pave the way for needed relief for the heavy tax burden on our present American families.

When this budget reconciliation bill is signed into law, we will not be at the end of the trail, but only at the beginning. We will have identified the path and the course, but each year we will have to make spending decisions that will keep us on the road that is being defined here today and tomorrow.

During my nearly 17 years as a privileged Member of this body, I have seen many instances where unforeseen spending requirements from hurricanes to peacekeeping operations have arisen and been funded by the Congress. These will surely occur from now until the year 2002 when the deficit is projected to disappear.

We are now committed to making our Government live within the funding levels contained in this bill. If emergencies occur, we will have to offset their costs with spending reductions. Those budget decisions will be as difficult in the year 2000 as they are this year. But this package is a commitment by the Republican majority and eventually by the entire Congress that we will stay the course.

Mr. President, I yield the floor.

CAPITAL GAINS TAX CUTS: A BOOST TO ECONOMIC GROWTH

Mr. HATCH. Mr. President, I rise in support of the capital gains tax cut provisions in the budget reconciliation bill that lies before us today.

I would like to focus my remarks on the economic effects that these provisions will have on our country.

Mr. President, what often seems to get lost in all of the debate about capital gains is economics.

Opponents of the capital gains tax cut seem content to promote class warfare while ignoring the economic effects of such a change.

It seems to me, however, that instead of worrying about whether the so-called rich will pay less in taxes under this bill, the most important thing to focus on is how to sustain and boost economic growth so we can balance the budget and create the jobs needed by the next generation.

The respected economic forecasting firm of DRI/McGraw Hill has studied our capital gains tax provisions very carefully. Their findings appear on this chart 1 following this statement.

First, we should note that between now and 1999, DRI projects that about 600,000 new jobs will be created as a direct result of the capital gains provisions contained in this bill.

Of paramount concern to all of us is the need to expand the job base so that no matter where one is on the ladder of success, there is opportunity to move up economically.

As this chart 2 shows, most of the new job creation taking place in this country is provided by new companies and those that are in the early phases of their growth cycles.

Look at the figures—while large companies are in the down-sizing mode, small and medium companies are expanding.

The expanding companies are not the long established blue chippers. There is more risk involved investing in these emerging enterprises than in mature companies.

By lowering the effective capital gains tax rates, the risk threshold for all investors will decrease and this will cause more equity funds to become available to companies that are in the growth stage.

To illustrate this dynamic, Mr. President, consider the following facts.

From 1969 to 1971, there were on average 510 new public offerings in this country per year.

From 1972 to 1976, when the effective capital gains rates jumped to just over 49 percent, only 145 new public offerings occurred on average each year.

When the effective capital gains rate fell to 20 percent between 1981 and 1986, the average annual new public offerings figure jumped to 577.

Between 1987 and 1992, when the capital gains tax rate jumped up again to 28 percent, the number of public offerings dropped to only 431.

While some growth in new company formations can be attributed to the fact that our economy was growing during those years, one wonders how much more it might have benefited if we had not increased the capital gains tax rate.

Obviously, there is a relationship between the capital gains tax rate and the rate at which new companies start and grow.

And, because these new and expanding companies are fueling most of our job growth—more than 70 percent of all new jobs are in small business—we can see that lowering the capital gains tax rate will increase the number of jobs in this country.

Mr. President, DRI has made three other projections on chart 1.

Because of the capital gains provisions in this bill, we should experience a 4.1 percent increase in our capital stock, a 5.1 percent increase in fixed investments and a 1.2 percent increase in labor productivity.

What does capital stock refer to? It refers to our investment in plant, equipment, and technology. Even a ditch digger needs a shovel.

While hundreds of millions of laborers around the world work for mere pennies per hour, how is it that most of our American jobs have not already been exported outside of our country? The answer is capital stock.

We have one of the highest ratios in the world of capital stock per labor hour worked.

In other words, for each hour a laborer works, we have more capital invested to support that worker in his or her job than most of our competitors around the world.

As a result, on a per capita basis, American workers are the most productive in the world.

This explains how our country grew from a predominantly agricultural economy to a predominantly manufacturing and services economy without reducing our agricultural output.

It has been estimated that at the turn of the century, about two-thirds of the American work force were in farming.

Today, only about 3 percent of Americans work in farming. Yet, our grocery stores and storage facilities are filled to overflowing even though the number of mouths to feed has gone up and the number of agricultural workers has gone down dramatically.

But for this tremendous infusion of capital stock into the equation, our American farmers would probably be about as productive and well paid as their counterparts in China.

Because of the capital investment supporting our workers, we have made their services more valuable which, in turn, has prompted higher real wage rates here than most other countries in the world.

Mr. President, the critical relationship between capital stock and real wage rates is illustrated by chart 3. Note that as our capital stock grows, real wages increase almost in lockstep. Thus, it is critical that we maintain growth in both capital stock, fixed asset investment, and worker productivity.

And, as the DRI projections show, the capital gains provisions of this bill will do just that.

Please note, Mr. President, the DRI projection in chart 1 that our collective cost of capital will drop by 8 percent as a result of the capital gains tax reductions in our bill.

Many believe that our relatively high cost of capital is a critical area of U.S. weakness when competing in the international marketplace.

Thus, in passing a capital gains tax reduction, we can take a meaningful step today toward narrowing this critical competitive gap and helping all Americans in the process.

It should go without saying that growth in our collective standard of living depends upon growth in our gross domestic product.

Mr. President, a 1.4 percent increase in GDP in the DRI projections contained in chart 1 might not seem like very much, but when applied to a $7 trillion economy, we are talking about an additional $100 billion of growth.

As can be seen from this chart 4, Mr. President, we treat capital gains more punitively than most of our major international competitors.

We can also see why the competitors in the Far East are gaining on us. We need to respond to this challenge in order to enhance our international competitive position.

Mr. President, much has been said about the wisdom of lowering capital gains taxes at a time when we are trying to balance the budget.

In my opinion, tax cuts and balancing the budget are not mutually exclusive, especially in the area of capital gains.

Before the Hatch-Lieberman capital gains proposal underwent minor changes in the Senate Finance Committee, the Joint Committee on Taxation projected that it would result in about $89 billion in lost Federal revenues over 10 years.

I very much doubt that this projection will be accurate, for a couple of reasons.

First, both the CBO and the Joint Committee on Taxation have a poor track record in estimating the revenue effects of capital gains tax rate changes, as can be seen from this chart.

In connection with estimated capital gains realizations for 1991, CBO originally projected realizations of $269 billion while the Joint Committee on Taxation projected realizations of $285 billion.

In reality, there were only about $108 billion worth of realizations for that year. In other words, the CBO was off by 60 percent and the Joint Committee on Taxation was off by 62 percent.

Estimating errors of a similar magnitude were made for 1990. In this case, the Bush Treasury Department projected capital gains revenues of $48 billion, while CBO projected $53 billion for that same year.

In reality, the revenue only amounted to $28 billion. The cumulative gap from 1989 to 1992 between the Bush Treasury's revenue estimates and what actually was realized totaled $85 billion. The CBO was $118 billion off the mark over the same period.

The problem is that the economic models used by CBO, the Joint Committee on Taxation, and the Treasury do not adequately take into account the macroeconomic feedback effects caused by changes in the capital gains tax rates.

This explains the wide divergence between their projections and reality.

It is a fundamental law of economics that people respond to incentives. If we tax a good or service more, people buy or produce less of it. If we tax capital more, we get less.

If we lower the tax on capital, we will create more of it.

For years, the revenue estimating agencies of the Federal Government have failed to adequately account for the feedback effects of taxation.

DRI has included these feedback effects in its estimate.

As the DRI study indicates in chart 1, rather than the loss projected by the Joint Committee on Taxation, we should actually experience at least a $12 billion increase in Federal revenues over the next 10 years.

Personally, I believe this estimate to be on the conservative side. I believe a 50-percent capital gains deduction will unlock the floodgates of capital gains realizations.

There is an estimated $8 trillion in unrealized capital gains in this country. Even if this bill only unlocks a small percentage of this vast mountain of capital, we will have unleashed a tremendous force for growth in our economy.

With the benefit of hindsight, it is easy to see that we made a serious mistake in raising the effective tax rates on capital gains after 1986.

Chart 5 shows the foregone realizations that we missed by the 1986 capital gains tax increase.

The lighter bars indicate actual realizations. Notice, Mr. President, how they drop off and stagnate after 1986 while the Standard and Poors stock index [S & P Index] continued to rise.

The dark bars represent what taxable capital gains realizations would likely have occurred if they had kept pace with the S&P Index, as they did before the capital gains tax increase.

This helps explain why our capital gains tax revenues have been so anemic since 1986.

After jacking up the top effective capital gains tax rate by 40 percent, from 20 to 28 percent, some might have expected a similar 40 percent increase in capital gains tax revenues.

However, we have only managed to generate an average of about 64 percent per year of the capital gains revenue received in 1986; 28 percent is clearly higher than the tax rate that maximizes capital gains revenues to the Treasury.

Mr. President, recent history has made it clear that there is a direct relationship between capital gains tax rates and the amount of revenue from capital gains realizations received by the Treasury.

Experience shows that reducing the capital gains tax rate actually increases government revenues.

Consider the period from 1978 to 1985. On November 1, 1978, the top capital gains rate dropped from an effective 49 percent to 28 percent. It fell again in the middle of 1981 to 20 percent.

Rather than experiencing a similar reduction in capital gains revenue, as some might predict, we saw the sharpest increase in such revenues since World War II.

Annual capital gains tax receipts grew from $9.1 billion in 1978 to $26.5 billion in 1985.

In other words, at the same time we experienced a 59 percent decrease in the top capital gains tax rate, our annual capital gains tax revenues increased by 191 percent.

Mr. President, some of my colleagues on the other side of the aisle are, in effect, saying that no tax benefits should go to the so-called wealthy.

This is ludicrous. How do we expect to attain the economic objectives that we all are seeking if the wealthy stay on the sidelines as mere spectators, rather than as active participants?

Some of my colleagues seem to hold that no matter how beneficial a certain course of action is to the economy and to average Americans, that action is totally unacceptable if the rich get any benefit from it.

Abraham Lincoln once observed that you cannot help the weak by weakening the strong.

Likewise, we cannot help all Americans by punitively taxing wealth. Our progressive income tax already does a good job of that.

Trying to craft a set of incentives that exempts from coverage the very

people whose conduct is critical to the attainment of our economic goals just will not work.

By giving an across-the-board capital gains tax deduction to everyone alike, we will encourage an efficient reallocation of resources in such a way as to stimulate economic growth for all Americans.

As I mentioned earlier, at stake in all of this is about $8 trillion of locked-in capital gains, which if unlocked, would produce substantial revenue gains to the Treasury, as well as create more jobs and economic growth for all Americans.

Let me close Mr. President, with a real-life example that indicates that all of the economic principles I have talked about actually work and are not just theories that sound good.

As a division of a major parent company, Sungard Data Systems had $30 million in annual sales but was losing money.

The parent company decided to sell this division. Venture capitalists believed that they could turn things around and return Sungard to profitability. The new buyers were correct.

After the sale, the new management generated over $440 million in revenues and about $70 million in operating income.

What used to be a 400-employee division before the sale turned into a 2,400-employee company after the sale. This represents a 500-percent increase in jobs.

Did the rich venture capitalists get richer from all of this? Of course they did. But most importantly, 2,000 people had good jobs that did not exist before. This is the way our economy has always worked.

This is America, where it is possible to create wealth for oneself by investing one's sweat, one's brains, and taking a risk. By so doing, the risk taker creates wealth and opportunity for those around him or her.

Now is not time to abandon the economic principles that made this country the greatest economic powerhouse the world has ever known.

Mr. President, I urge all of my colleagues to vote in favor of the tax package reported out of the Finance Committee.

Mr. President, I ask unanimous consent that items referred to above be included in the RECORD.

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

September 1995 DRI/McGraw Hill study projects the specific economic benefits that will result from a 50 percent capital gains deduction as follows:

150,000 new jobs created each year from 1997–2000.

4.1 percent increase in capital stock.

5.1 percent increase in fixed investment over 10 years.

1.2 percent increase in labor productivity.

8 percent reduction in the cost of capital.

1.4 percent increase in GDP over 10 years.

$12 billion increase in federal tax revenues over 10 years.

Who Generates the New Jobs?

Answer: New Companies and Those in the Early Stages of Expansion:

Small Companies: Added 1.6 million net jew jobs in 1993; and 25% job growth per year from 1989 to 1993.

Large Companies: Industries dominated by large companies had a net decrease of 200,000 jobs in 1993; and Fortune 500 companies lost about 3% of their jobs from 1989 to 1993.

Comparative capital gains rates

	Percent
United States	28
Japan	(1)
France	18.1
Germany	0
South Korea	0
Taiwan	0
Singapore	0

Lesser of 1 percent of gross sale price of 20 percent of gain.

U.S. AFFILIATED INSULAR AREAS

Mr. AKAKA. I would like to engage in a colloquy with the chairman and ranking member of the Committee on Energy and Natural Resources, and my good friend, the senior Senator from Hawaii, on a matter of very great concern to me—a provision in the House reconciliation bill that is inconsistent with House and Senate Appropriations Committee actions and would eliminate our ability to meet some of the most basic needs in the U.S. affiliated insular areas.

What the House Subcommittee on Native American and Insular Affairs has proposed, and the House has accepted, may appear to many to be relatively noncontroversial—the repeal of a $27.7 million mandatory annual appropriation to the Commonwealth of the Northern Mariana Islands [CNMI] for infrastructure improvement projects. The reality, however, is that this recommendation would wreck—before it can even be implemented—a carefully negotiated bipartisan, bicameral agreement made by the Conference Committee on Appropriations for Interior and Related Agencies.

After outlining the facts in this case, I would hope and urge that the Senate conferees conclude that this proposal is misguided and must be rejected.

In the administration's budget request it was recognized that the needs of the Commonwealth of the Northern Mariana Islands for Federal financial assistance were decreasing due to local economic growth. Therefore, the level of financial assistance could be decreased. However, the Administration and the Appropriations Committees also recognized that there continue to be significant future needs and obligations to be met in other island insular areas.

The first of these other obligations is fulfilling the intent of section 103(i) of Public Law 99–239, the Compact of Free Association Act of 1985, which obligates the United States to undertake radiation mitigation measures and to resettle the people of Rongelap who were irradiated during the United States' nuclear testing program in the Marshall Islands.

Second, Public Law 99–239 also authorizes immigration from the former Trust Territory of the Pacific Islands to the United States and its territories. In recognition of the impact which this immigration would have on social services, particularly in Guam, section 104(e)(6) of Public Law 99–239 authorizes compensation to assist in offsetting the negative impacts of immigration under the compacts.

Third, economic development in remote American Samoa is still unable to generate sufficient revenue to meet all of the territory's basic needs. Of greatest concern is the Environmental Protection Agency's estimated $30 million backlog in waste water construction. If these projects are not undertaken, then the community will face an increasing risk of contamination of its groundwater, as well as destruction of its protective and productive surrounding coral reefs. In addition, American Samoa's hospital facilities are nearing the end of their useful life. The Department of the Interior and the Army Corps of Engineers estimate renovation or replacement costs for healthcare facilities to be between $20 and $60 million.

Finally, the fourth obligation facing the Federal Government with respect to the islands is fulfilling our commitment to the CNMI. In 1992, the previous administration and representatives of the CNMI reached an agreement under which the Federal Government would provide $120 million in financial assistance to the CNMI, to be matched by $120 million from the CNMI, to meet the capital infrastructure needs of their rapidly growing population and economy. From 1993 to 1995 much of these funds were provided to the CNMI under the mandatory appropriation established by section 702 of Public Law 94–241, the Covenant to Establish the Commonwealth of the Northern Marianas. However, $77 million remains to be paid under the agreement.

Given the extreme pressure on the budget, how were these needs and obligations to the islands to be met? Fortunately, the administration proposed a solution which would allow the appropriations committees to avoid the nearly impossible task of meeting these needs through large annual discretionary appropriations. The proposal, contained in the Insular Development Act (S. 638), was to reallocate the CNMI's $27.7 million mandatory annual appropriation to meet needs among all of the islands. The Energy Committee held a hearing on this bill on May 25, 1995, and the full Senate passed the bill on July 20. The Office of Management and Budget and the House and Senate Appropriations Committees supported the proposal because it would allow for significant discretionary savings.

In short, there is a solution to a set of difficult problems. The administration's original concept was adopted and modified to specify priorities and funding levels among these needs. It was then agreed to on a bipartisan basis by

the Conferees on Interior Appropriations, who could now also agree to eliminate discretionary funding to meet these needs.

Mr. President, it is with the greatest disappointment that I view the House recommendation to repeal the CNMI mandatory appropriation. This proposal completely wrecks the carefully crafted policy to meet the public health needs of Samoa, fulfill our commitment to the CNMI, compensate Guam for the negative social impacts resulting from compact immigration, and to acquit ourselves with respect to our commitments to the nuclear testing victims of Rongelap Atoll.

I would like to call on my good friend, the Senior Senator from Louisiana and the ranking member of the Committee on Energy and Natural Resources, to confirm my presentation of the facts in this matter.

Mr. JOHNSTON. The Senator is absolutely correct. The provisions of the Interior conference report were the result of weeks of careful bipartisan effort. As ranking member of the authorizing committee I have been familiar with each of these issues for many years and have shared with the Senator from Hawaii the frustration of trying to find a solution. This is why I joined with my chairman, the senior Senator from Alaska, in writing to the chairman and ranking member of the Interior Appropriations Subcommittee urging that the administration's proposal, as modified and reported by the Committee on Energy and Natural Resources, be included in the Interior appropriations bill.

I have been dealing with territorial issues since I first came to the Senate in 1972, and I can assure my colleagues that although these islands are small and remote, their needs are just as real as those of the States. We have responsibilities to U.S. citizens and nationals and citizens of the former Trust Territory that we simply cannot turn our backs on. After three long years we have finally come up with a solution to meet four of our most pressing problems in the islands. I simply cannot understand how the House justifies its proposal, which would ignore these responsibilities and commitments.

Let me reassure my colleague from Hawaii that I will do all that I can to ensure that the Senate position prevails on this matter.

Mr. AKAKA. I thank my good friend and would also like to ask the chairman of the Committee on Energy and Natural Resources, whether my understanding on these matters is correct.

Mr. MURKOWSKI. I agree with the Senator's statement. In fact, I ask unanimous consent that the letter sent by our Committee to the Interior Appropriations Subcommittee requesting the adoption of S. 638 be printed in the RECORD at this point.

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

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, July 25, 1995.

Senator SLADE GORTON,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to you concerning the funding for the Department of the Interior's responsibilities for territories and insular areas, including the freely associated states. We are concerned over the action taken by the House in eliminating funding for staffing and for very important programs, such as technical assistance, operations and maintenance improvement, insular management control, and disaster assistance. Each of these programs, while relatively small, have proved to be of critical importance in assisting the various island governments. We understand that both the Departments of Defense and the Interior have also expressed their concern over this action.

The elimination of the salaries for all staff is perplexing. Including the FY '95 appropriation, there are over $900 million in funding for the territories and freely associated states that the Department of the Interior is responsible for. The Department has reorganized and placed responsibility under the Assistant Secretary for Policy, Management and Budget. As part of that reorganization, the core permanent staff has been reduced from 45 to 25. We believe that the staffing level should be kept to the minimum necessary to enable the Secretary to fully discharge his responsibilities. We have strongly suggested that they give serious consideration to using at least a portion of the savings to obtain details from other agencies to enhance the Department's ability to deal with problems in the islands and to reduce the need for permanent staff. We expect that further adjustments will be made in the future as the responsibilities of the Secretary change. The expected efficiency and greater emphasis on technical and financial management assistance to the areas will be completely frustrated by the House action.

We do not see how the reductions proposed by the House can be supported. As you may be aware, the Senate has passed S. 638, which in part would redirect the permissible uses of that portion of the current entitlement for the Northern Marianas not needed to meet the 1992 Agreement on future funding so that the excess could be used for long-term infrastructure planning. Those funds would also provide the ability to meet United States responsibilities in areas such as assisting in the resettlement of Rongelap. In part, the Committee felt that this action would increase the flexibility of the Appropriations Committee to address critical needs such as financial management. Enactment of that provision would also provide a significant portion of the infrastructure funding for American Samoa needed to meet critical health and safety concerns. Given the increasing pressures on the budget, we see no alternative other than reallocation of the excess CNMI funding if essential needs are to be met.

Accordingly, we urge you to reject the action taken by the House in eliminating funding for staff and for essential programs for the insular areas. If you agree with the action taken by the Senate with respect to the use of excess funding for the Northern Marianas, we suggest that you seriously consider adopting such a provision as part of the Appropriation measure.

Sincerely,

J. BENNETT JOHNSTON,
Ranking Minority Member.
FRANK H. MURKOWSKI,
Chairman.

Mr. MURKOWSKI. Let me also reassure my colleague of my strong desire to see that our agreement, as set forth in the Appropriations conference report, not be undermined by the House reconciliation proposal which contradicts that agreement.

Mr. AKAKA. I thank the Chairman for his reassurance. Mr. President, finally I would like to ask the Senior Senator from Hawaii, for his support on this matter.

Mr. INOUYE. The Senator is correct. It comes as a great disappointment to me that just as the United States was finally coming to a resolution on how to meet its obligations on these issues, the House has proposed to repeal the source of funding that had been agreed upon.

I stand with my colleagues on the authorizing and appropriations committees in urging that the Senate insist on its position in conference—that the CNMI's mandatory funding be preserved in order to implement the bipartisan, bicameral agreement to reallocate these funds as set forth in the Interior Appropriations conference report.

Mr. AKAKA. I thank my colleagues for their support in ensuring that the Senate position prevails on this issue.

Mr. KEMPTHORNE. Mr. President, I rise today in strong support of passage of the Balanced Budget Reconciliation Act of 1995. This is not only good legislation. It is historic legislation. For the first time, in a long time, Congress has the opportunity to vote for a truly balanced budget—not just a theory, not just rhetoric but an action plan to realize the goal that many thought impossible.

Only once in the past 30 years has the Federal Government had a balanced budget. Every other year we ''deficit spent'' our way toward a national debt that now stands at nearly $5 trillion dollars. That is $19,000 of debt for every man, woman and child in the United States. Because the interest on the debt is threatening to consume ever larger portions of the budget, this national debt is currently one of the greatest threats to our children's future.

For the fiscal year that ended on September 30 the Federal Government ran a deficit of $161 billion. If nothing is done, and we don't change our spending habits, that deficit will rise to $256 billion by 2002. We must stop borrowing from the future and learn to live within our means. This budget reconciliation bill gives us the blueprint to accomplish that task.

While the American people made it clear that they wanted the Federal budget balanced, they also made it clear that they wanted meaningful tax relief. The Republican leadership heard that message loud and clear. Besides balancing the Federal budget by the year 2002, the Reconciliation Act of 1995 provides the biggest tax cut in history—more than $245 billion. Of

these cuts 84 percent go to those making less than $100,000 and 70 percent go to those making less than $75,000. These tax cuts are real, significant tax relief for the families of America. For example:

A $500 per child under 18 tax credit for couples earning $110,000 or less annually.

20 percent credit of interest paid on student loans up to $500 per year, per borrower, for couples with an adjusted gross income of $60,000 or less.

Raising the income limits for eligibility for IRA's by $5,000 annually until they reach $100,000 for couples and $85,000 for singles and indexing for inflation and creating a $2,000 IRA for homemakers.

Capital gains reform that deducts 50 percent of the gain for individuals that have owned property at least 1 year, which effectively lowers the tax rate to 19.8 percent A reduction of the corporate rate on tax gains to 28 percent. Both changes are effective 10–13–95.

Estate tax reforms that will allow more Americans to continue operating family owned business after the death of the primary owner/founder. The first $1.5 million in value of family owned businesses and farms are exempt from tax and the tax on the next $3.5 million is reduced by 50 percent.

These tax cuts are both responsive and responsible solutions to the excessive taxation that is stealing the financial independence from American families across this country.

The Medicare portion of the budget reconciliation package is, in every sense of the word, true reform. It takes the current system, which is so obviously flawed and damaged beyond simple Band-Aid fixes, and transforms it into something which will truly work. It will work not only to meet the health care needs of current and future senior citizens, it will work to allow the marketplace, and therefore the people, to shape the future of health care.

We all know the level of political rhetoric which has surrounded the issue of Medicare reform. The fact remains, however, unless something is done, and done soon, Medicare will go bankrupt. This is not a political issue. This is not a matter of just whether or not Republicans want to change the system. It is a question of whether or not we have the courage to make the tough decisions needed to save the system. Simply delaying the pending bankruptcy for a couple of years will not be sufficient. We have had enough of that attitude. It is time to stand firm and to stop avoiding the difficult decisions before us. I believe the Republican Medicare reform package does just that.

The contents of the Medicare reform proposal have been significantly misrepresented. I believe it is important to point out what the measure reported out of the Finance Committee does.

The first thing the plan does is provide choice. For too long we have told this Nation's senior citizens that they may not have a choice. When they turn 65, they are placed on Medicare, whether they want it or not. Until recently, only a few were even allowed to choose managed care options instead of fee-for-service. I believe this is outrageous. To tell people in this country that they may not provide for their own health care as they see fit violates the basic principles of freedom for which so many of our seniors fought and sacrificed. Some have claimed seniors have all the choice they need, but that is simply not true. When older people are turned away from a health care provider's office because the provider no longer wishes to struggle with the regulations and bureaucracy surrounding the Medicare Program, they have no choice. This must simply change.

So what kind of choice will seniors get to make? Under the Republican proposal they can stay enrolled in the current Medicare program. Those wishing to go beyond the present system may choose from traditional fee-for-service indemnity health plans—(just like many of them had before retirement), coordinated care plans, and high-deductible health plans with medical savings accounts, also known as MSAs. In addition, the Medicare reform plan allows future enrollees to select from yet unforeseen health options as they become available, provided the plans meet minimum Federal standards. This, I would say to my colleagues, is the kind of choice most Americans already have. Do our senior citizens deserve any less?

The Medicare reform plan we are debating also addresses another issue, fraud, which Idahoans have told me should be one of the primary focal points of any reform effort. I am pleased our plan takes serious efforts to reduce health care fraud and abuse. Specifically, the bill provides for the establishment of coordinated efforts by Federal, State, and local law enforcement officials to combat fraud. The bill also instructs the Secretary of Health and Human Services to exclude individuals convicted of health care fraud from receiving payments under Medicare and Medicaid. Furthermore, the reform package would establish a new criminal statute, with specific criminal penalties, and would also increase fines and civil penalties for health care fraud.

With expanded choice and reduced fraud, one must wonder why there is so much opposition to our Medicare reform plan. I believe it stems from fear based on misinformation. In an attempt to set the record straight, I would like to take this opportunity to point out what the reform package does not do.

First, this proposal does not cut Medicare. Under the Republican plan, Medicare will continue to grow by 6.4 percent each year. Over the next 7 years, expenditures for Medicare will grow by nearly $2,000 per recipient. Only in Washington could a $2,000 increase in payments per person be labeled, by some, as a cut.

The GOP plan also does not force people to give up Medicare or to join managed care organizations. As I stated before, the plan offers seniors a choice. It lets them, rather than the Government, decide how one will receive health care. I believe this Nation's senior citizens can make those choices.

In addition, the spending reductions included in the Medicare reform package are not, and I will repeat this, are not, related to a tax cut. The bill explicitly states that savings generated from reforming the Medicare system may not be used for any purpose other than saving and preserving the Medicare system. Whether or not we adopt any tax cuts, we need these savings to preserve the system for current and future recipients.

Finally, to those who say smaller savings would be sufficient, I would ask them to define ''sufficient.'' While the Democrat's proposal would prevent the system from going bankrupt in 2002, as it is currently on a pace to do, it would allow the system to fail only 2 years later. This attitude of ''put it off until it is someone else's problem'' is precisely why the United States is in the economic mess it is. As the Medicare trustee's said, ''prompt, effective, and decisive action is necessary.'' Simply delaying the inevitable is not a solution.

I was pleased to note that my hometown newspaper, The Idaho Statesman, shares this view. In a recent editorial the newspaper stated, ''Without enormous changes like those proposed by the GOP, the program will go broke soon after the turn of the century.'' The editorial went on to say, ''somebody finally has the courage to begin fixing what's been broken for a long time.''

Since before I first came to the Senate, Idahoans have told me they want Congress to face the important issues head on, to try to set this country on solid economic footing. The Medicare reform plan which the Senate Finance Committee approved does just that. It will not be easy, and it will not be painless, but it will achieve our goals. It will correct the financial difficulties the program faces, bring the efficiencies of the market into play, and give senior citizens the freedom to choose.

The Idaho Statesman's editorial ended with the following statement, ''The numbers clearly show that Medicare, which served one generation well, cannot serve the next one without significant reform.'' The Republican package is just that, significant, and serious, reform.

The Finance Committee has also used this bill as a vehicle to redirect and energize the earned income tax credit. The EITC is a well-conceived and well-intended program designed to encourage work over welfare for low-income families. Unfortunately this worthy intent has been lost in what has become the fastest growing entitlement program we have. Just since 1986 it has grown from 7 million families receiving an average of $281 to 18 million

families receiving an average of $1,265. The EITC no longer benefits only families with children but provides benefits to both individuals and families without children.

The Senate proposal redirects the EITC back to the truly needy, reduces the potential for fraud and abuse and puts money where we need it, in the hands of low income families with children. We will increase spending on the intended beneficiaries at the same time we save the taxpayers more than $32 billion.

I ask my colleagues to join me in supporting the Balanced Budget Reconciliation Act. It is good, smart legislation that demonstrates to the American taxpayer that Republicans are serious about changing the business as usual attitude in Congress.

S-CORPORATION REFORM

Mr. PRYOR. Mr. President, as many of my colleagues are aware, there are a number of tax issues of significant importance to the 1.9 million American businesses that are S corporations that did not get resolved during the Finance Committee markup last week. Many of those issues—which include the current law's severe limitations on capital formation, growth, corporate streamlining, family business planning, estate planning, and tax simplifaction—are addressed in a bill I introduced earlier this year with my colleague from Utah, Senator HATCH. That bill, S. 758, the S Corporation Reform Act of 1995, has the bipartisan cosponsorship of a third of the Senate.

While it is unfortunate that none of the provisions of S. 758 were included in the bill reported by the Finance Committee and made part of the Budget Reconciliation Bill that is before us, I am pleased to note that many of these provisions were included in the tax bill passed by the House Ways and Means Committee.

Mr. HATCH. Mr. President, I, too, share the concerns of my colleague from Arkansas and see S corporation reform as an important step in helping this nation's S corporations stay competive and grow. I firmly believe that S corporation reform is long overdue, and hope that we can work through the conference process and during the rest of this legislative session, not simply to adopt the key S corporation simplification provisions that have already been included in the House bill, but also to address and include several additional provisions that are critical components of S. 758.

Mr. PRYOR. Mr. President, I agree with my colleague from Utah. Specifically, I believe that it is very important that we extend the S corporation reform initiative in the budget process to include all the items in the House bill, as well as such provisions as:

The ability of S corporations to issue preferred stock and general convertible debt;

The ability of S corporations to form ESOPs, so their employees can share in the success of the business;

The ability of financial institutions to be shareholders of an S corporation's stock, which is often a critical element of obtaining financing for corporate growth; and

The ability of all members of a family to be counted as a single shareholder of an S corporation, since family-owned S corporations are frequently stifled as they continue to grow from one generation to the next.

I hope that these issues will be on the table for discussion, and that my colleagues will be willing to help S corporations—most of which are small and/or family owned businesses—be more effective competitors in the marketplace.

Mr. HATCH. Mr. President, I understand the concerns of my colleague from Arkansas, and also hope that we will be able to resolve these and other critical issues in conference. I will be working closely with Senator PRYOR in the coming weeks on these very important legislative objectives.

Mr. WARNER. Mr. President, seeing no other Senators seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNETT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in support of the Balanced Budget Reconciliation Act of 1995 which, for the first time in many years, controls entitlement spending, restrains the growth of Government and eliminates annual deficits.

What a refreshing contrast this balanced budget reconciliation bill is to the budget proposals submitted over the past 2 years by the President. Those budgets enacted the largest tax increase in history, contained no plan to balance the budget, significantly increased the national debt, failed to restrain growth in nondefense Government spending and proposed dangerous reductions in national defense spending.

Mr. President, the Balanced Budget Reconciliation Act of 1995 reverses direction on those policies which are strapping our economy and burdening all Americans with an overwhelming national debt.

I remind my colleagues that the national debt now stands at over $4.9 trillion. Outlays for interest on the public debt is well over $300 billion per year, exceeding outlays for any other Government Department or program, except Social Security.

Furthermore, failure to adopt this reconciliation act will result in annual deficits exceeding $200 billion for as far as can be projected. That is not an acceptable alternative. We must reduce Government spending. We must eliminate these annual deficits, and we must reduce the national debt. The Balanced Budget Reconciliation Act puts us on track to accomplish those objectives.

Mr. President, I support the Balanced Budget Reconciliation Act of 1995. I vote yes for reducing the deficit. I vote yes for controlling the growth of Government spending. I vote yes for our families by reducing their tax burden. I vote yes for restoring the economic future of our Nation. Therefore, I will vote yes for this bill and encourage my colleagues to do likewise.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I was here listening to the distinguished Senator from South Carolina talking a moment ago. As always, I am impressed with his vigor, vitality, and enthusiasm and, indeed, his stamina.

I also found myself in agreement with much, if not most, of what he was saying. I agree that we should vote yes on deficit reduction, and I see my friend from New Mexico here. I want to tell him how much I admire him personally, the job he has done and the work that he has put in over the years on the Budget Committee, the years he has spent dedicating himself to budget reductions and trying to achieve a balanced budget for this country. So I do not want him in any way to regard the comments I might make in the next few moments as being in derogation of my respect and admiration for him.

I agree with what Senator THURMOND said; we have to vote yes on deficit reduction. I believe that. I believe we have to vote yes on cutting spending. I believe we have to vote yes on reforming programs which have heretofore been regarded as untouchable, being third rails we cannot touch. I think we have reached the point in our history where we have to look at virtually every program and not decide that any of them are immune from reform, from trimming, from cutting, maybe even elimination.

But there are other items in this package that I do not support. I do not support drilling in ANWR. I do not support opening that up. I do not, frankly, support calling for tax reductions at a time when we are calling for deep budget cuts. For me, it is the equivalent of putting our foot on the brake and putting our foot on the pedal at the same time. It is a personal decision on my part. I feel that I can support virtually all the cuts that are necessary to achieve a balanced budget by the year 2002.

I was pleased to hear President Clinton indicate that he, No. 1, believes we should strive for a balanced budget. Initially he said 10 years, then it was 9 years, and now I believe it is even 7

years. I think that is quite a concession on his part, that he agrees that we ought to have a balanced budget within a 7-year timeframe.

The dilemma that I face is like that of several other of my colleagues. This may be the only vehicle to date that we have for achieving a balanced budget by the year 2002. This may be only part of the process that is underway.

This may be act II of a three-part drama that has to be played out that was initiated by the Contract With America, as being part one in its adoption, and part two being our deliberations and debate, and, ultimately, votes here in the Senate and conference with the House, to present a package that will be sent to the President that most, if not all, of us anticipate will be vetoed by the President because it does not include some of his priorities. That may be act II.

Ultimately, we have to come to act III, which is where we sit down with the President and work out our differences—again, being committed to a balanced budget by the year 2002.

So I will listen with some interest as we proceed throughout the evening and into tomorrow as to whether or not I can support the final package. But I indicate today, as I did last evening, I think it is inappropriate that we have massive tax reductions at a time when we are trying to balance the budget and cut the deficit to achieve a balanced budget by the year 2002. And so I intend to support various amendments that will be offered.

I may, in fact, offer an amendment to strike the tax cuts in their entirety. But it may be that that matter has already been debated long enough on the Senate floor. It is my personal judgment that we ought to do everything we can to make the reductions that we have long deferred in making, that we ought to do it within a 7-year timeframe, that we should support our chairman in his efforts for what he has done to produce that.

But I must say, Mr. President, that I have great reservations about calling for substantial tax reductions at the same time we are asking for substantial cutbacks in programs.

So I will listen with interest as we proceed throughout the evening and tomorrow. But I indicate my great admiration and respect for Senator DOMENICI and the effort he has undertaken to produce a reconciliation package that, perhaps, is only part two or act II of the three-act drama that has to be played out.

The PRESIDING OFFICER. The 15 minutes called for under the previous order has expired.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. Is Senator BROWN's amendment before the Senate, on which he has 5 minutes?

The PRESIDING OFFICER. The Senator needs to call that amendment up.

AMENDMENT NO. 2969

(Purpose: To provide that the $1,000,000 limit on deductibility of compensation paid to an employee is extended to employees of all businesses, and to use the resulting revenues to reduce the Social Security earnings penalty)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN], for himself, Mr. ABRAHAM, Mr. SANTORUM, Mr. MCCAIN, and Mr. CRAIG, proposes an amendment numbered 2969.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. . $1,000,000 COMPENSATION DEDUCTION LIMIT EXTENDED TO ALL EMPLOYERS OF ALL CORPORATIONS.

(a) IN GENERAL.—Section 162(m) is amended—

(1) by striking ''publicly held corporation'' in paragraph (1) and inserting ''taxpayer (other than personal service corporations)'',

(2) by striking ''covered employee'' each place it appears in paragraphs (1) and (4) and inserting ''employee'', and

(3) by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995, except that there shall not be taken into account with respect to any employee to whom section 162(m) of the Internal Revenue Code of 1986 applies solely by reason of such amendments remuneration payable under a written binding contract which was in effect on October 25, 1995, and which was not modified thereafter in any material respect before such remuneration is paid.

(c) USE OF REVENUES.—Notwithstanding any other provision of law, the Commissioner of Social Security shall increase the earnings limit otherwise determined for each year under section 203 of the Social Security Act (42 U.S.C. 403) by an amount which takes into account the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment to section 162(m)(3) of the Internal Revenue Code of 1986 made by the Balanced Budget Reconciliation Act of 1995.

Mr. BROWN. Mr. President, this is a very straightforward amendment, and it deals with an area this Congress legislated on in 1993.

In 1993, Congress passed a tax provision that placed a limitation of a million dollars on the deductibility for publicly held corporations. The limit of a million dollars was on the amount they could deduct on the salary of an employee of that corporation.

I might say, just in retrospect, that statute had other provisions. In other words, it was possible to earn over a million dollars and have it deductible but only if it was incentive pay or fit into other provisions. So it is not an absolute limitation. But that limitation, in this Senator's view, was somewhat limited and deficient. It was deficient in that it was not applied evenhandedly, fairly; it was not applied to everybody who had a salary in excess of a million dollars; it was only applied to a special few. So the suggestion of the first half of this amendment is simply to be evenhanded and apply that same limitation to employees of all businesses. Again, the tax is on the business, not on the employees.

Mr. President, I might say two important things here. We have not changed any of the exceptions to this provision. In other words, included in it was a provision that allowed incentive payments, and so on. None of that has been changed.

In addition, included here is a provision that prohibits them from being retroactive. That is, if you have an employment contract signed prior to today, that is valid and not affected by this provision. But it does raise, according to the preliminary estimates we have, $800 million. That $800 million, according to the amendment, is then used to ameliorate the impact of the penalty on Social Security tax.

As I think Senators are well aware right now, above the threshold level a very high tax is placed on Social Security recipients, many of whom are not wealthy at all, but are low-income or middle-income and struggling, and they are put into a very difficult penalty situation. So this is a net, even with regard to tax revenue to the Federal Government.

What it does is take that $800 million that will be raised and use it to offset the earnings penalty. It will not eliminate the Social Security earnings penalty. My guess is it will only have a small affect on it. It will only increase the threshold a small amount of money. But that amount of money will go to working men and women, who retire without adequate resources and need that money and need to work to make their household expenses fit.

In my view, it is an excellent transfer. It applies even tax philosophy to those who receive over a million dollars in compensation. It provides evenhandedly and uses the money to ameliorate that Social Security earnings penalty that is so burdensome for so many working people.

Mr. President, I reserve the remainder of my time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, we have reviewed the amendment and checked it with the Finance Committee sources. I am prepared to yield back the full 5 minutes in order to move this thing along. Once again, I would like to take the opportunity to thank the chairman of the committee for his diligence and consideration, in allowing a 15-minute discussion period when we worked this out.

Let me say this. We have unnecessarily delayed the process here, though, because both sides have not been as forthcoming as I think we

should be—or that we intend to be, for that matter—in supplying copies of the amendments to the other side. I am not saying it is just on your side, it is on our side as well.

Suffice to say, I am ready to yield the remainder of my time. I believe—if the chairman agrees—that would take us to the Harkin amendment.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. EXON. Yes.

Mr. ROCKEFELLER. Mr. President, simply to affirm what the Senator from Nebraska says, I think it is, in fact, part of the agreement between the leaders that we will know what we are voting on, that we will have copies of these amendments. I have a list here of 17 of what are called Republican amendments, and three of them are question marks. There are all kinds of words. There is a word that says kickback, one that says taxes, health care, sugar. There is no way to make any kind of a judgment.

So I just affirm the view of the ranking member of the Budget Committee that we need to have these amendments. It is part of the agreement that we would have these amendments and our amendments in writing before we act on them.

Otherwise we are just singing in the dark.

Mr. BROWN. Mr. President, I yield back the balance of my time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered.

AMENDMENT NO. 2970

(Purpose: To strengthen efforts to combat Medicare waste, fraud and abuse)

Mr. EXON. Mr. President, I believe the next amendment in order is the amendment to be offered by the Senator from Iowa, Mr. HARKIN.

Mr. HARKIN. Parliamentary inquiry, Mr. President. How much time do we have?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. HARKIN. I have an amendment that I am sending to the desk, and I ask for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. GRAHAM and Mr. BIDEN, proposes an amendment numbered 2970.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. HARKIN. I yield myself 2 minutes.

Mr. President, if you believe that waste, fraud and abuse in Medicare is just a small problem, then you want to just support the bill and the Abraham amendment that was added to it and vote ''no'' on this amendment.

If you have followed the hearings that I have held over the last 5 years showing that what GAO says amounts up to 10 percent of Medicare spending goes for waste, fraud and abuse, this is up to $17 billion a year.

If you have followed those hearings or read the numerous GAO and Inspector General reports, then you know we just cannot go after the small things in waste, fraud and abuse. We have to go after the big game. We have to take a truly comprehensive approach to combatting this bilking of the taxpayers and our elderly.

Now, the bill has some good provisions in it. I will not deny that. The Abraham amendment which I voted for is also pretty good. But that just takes a nick out of it. What we have to do is go after it with every thing we can. The taxpayers and the elderly deserve no less.

My amendment, cosponsored by Senators GRAHAM and BIDEN, both of whom who have worked hard to tackle this problem, makes a number of important changes. It requires Medicare within 6 months must use state-of-the-art commercial software to find billing abuse. GAO estimated the first full year savings of making this common sense idea at $640 million.

Next, my amendment prohibits Medicare payments for unnecessary and inappropriate items like fines owed by health care providers for violations of Federal, State or local laws, personal auto use, tickets to sporting events, entertainment, and other things like that. Believe it or not, Medicare still has no specific prohibition against paying for those kind of items.

Third, my amendment reforms payments to ambulances as recommended by the inspector general. It also reduces paperwork by requiring a standardized claim form for Medicaid and Medicare.

Most important, and the heart and soul of this, it requires competitive bidding for durable medical equipment, medical supplies, and oxygen paid for by Medicare. The Veterans Administration has been doing this a long time and the difference in payments is dramatic.

How can you say you do not support it in Medicare when you have it in the VA, when the VA spends 4 cents for the same bandage that Medicare spends 86 cents for? Oxygen—Medicare spends $3,600 for rental of oxygen; the Veterans Administration pays less than half that.

That is because the Veterans Administration has competitive bidding and Medicare does not. It is time we have good old competitive bidding in Medicare. That is what this amendment does.

I yield 1 minute to the Senator from Delaware.

Mr. BIDEN. I compliment the Senator from Iowa.

Put bluntly, there is no legitimate reason not to be for this amendment. None. Zero. None. I challenge anyone to tell us why this amendment does not make sense.

Going after fraud should be our top priority, our first priority. The bill makes progress but it does not go far enough.

At least it is not what the Gingrich bill in the House does which makes it easier for health care providers to engage in fraud. Literally, not figuratively.

Last, the point made by the Senator, there is $18 billion in Medicare fraud a year and $16 billion in Medicaid fraud a year. I see no legitimate rationale for not tightening this up unless there is some outrageous special interest that thinks it would benefit from it. I see none. Prosecutors want it. Prosecutors ask for it.

I held a hearing in my State where I had the top prosecutors from Philadelphia and the top prosecutors from the State of Delaware. They point out that the House bill, which set them back decades—this bill would not do much. Our bill would make a significant impact on their ability to deal with health care fraud.

I thank my colleague for his leadership and allowing me the minutes.

The PRESIDING OFFICER. The Senator has 1 minute and 30 seconds remaining.

Mr. HARKIN. I will reserve my time if the other side wants to speak.

Mr. DOMENICI. I yield 5 minutes in opposition to Senator COHEN.

Mr. COHEN. Mr. President, ordinarily I find myself in agreement with the Senator from Iowa, dealing with health care fraud, but I must say in this particular circumstance I have to rise in opposition, not because I am opposed to what he is seeking to do but rather I believe that while his proposal for addressing fraud and abuse in the health care system has merit, they also compromised some of the more important facets of the health care fraud bill we were successful in including in the Finance Committee package as such.

For the past several years, we have been holding hearings. As a matter of fact, it was a report that the minority staff issued on health care fraud which produced the estimates from GAO, as well as our own staff, showing that there is $100 billion being lost annually in our health care system.

As far as the Federal portion of that, it is anywhere from $27 to $40 million, depending on which Federal programs are included. We are losing billions of dollars through our health care system through fraud now.

What we have tried to do in the proposal that was agreed to by the Finance Committee is to structure it in a way that actually produces savings—this $4.2 billion.

The amendment of the Senator from Iowa, as I understand it—unfortunately, because of the time limitations we have, I believe some of my provisions have been deleted that are in the health care fraud bill. I am advised that CBO has concluded that this dilutes some of the $4.2 billion in savings.

One of the justifications for persuading the Finance Committee to include the health care fraud bill that I had authored was to get some savings. CBO now scores it at $4.2 billion. This at least raises a question as to whether or not we have diluted that and it calls into question in terms of how much we will save.

The Senator from Iowa may use a different method of calculating those savings.

What we have tried to do is structure it in a way which we could get the provider groups to agree. This has been no easy task. We have met with provider groups, with consumers, with health care advocates, with the FBI, with the Justice Department, with the White House.

We put together a package which we believe enjoys broad support which has been scored as saving $4.2 billion. Under these circumstances, I find myself compelled to rise in opposition not because I am opposed to what the Senator from Iowa seeks to do, but by virtue of the fact this may undermine to some degree and dilute to some degree, which I do not know what extent, the $4.2 billion which has currently been scored by CBO.

For those reasons I rise in opposition to the amendment of the Senator.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute and 50 seconds and the Senator from Iowa has 1 minute and 14 seconds.

Mr. HARKIN. I yield 30 seconds to the Senator from Nebraska.

Mr. EXON. Mr. President, I am somewhat disappointed. I thought this was perhaps one amendment that we could get Republican agreement on.

This is a good amendment. There may be reasons to oppose it, but I do not know what they are and they have not been explained to me.

Mr. HARKIN. I am befuddled, Mr. President, because I say to my friend from Maine, the CBO—which I want on the record—the CBO has scored our amendment as saving more money than is in the bill. I want that on the record. That is so.

We did not weaken the provisions in the bill, we significantly strengthened them. For example, as I pointed out, we require the commercial software, we reduce the paperwork by having one claim form. We required the competitive bidding and we prohibit the Medicare payments for unnecessary things like personal use of automobiles, tickets to sporting events, things like that.

And CBO has certified that this amendment saves more money than the underlying bill's provisions.

Mr. COHEN. We are basically in accord with what we are seeking to do, but I have been advised that CBO indicates this would reduce the $4.2 billion by——

Mr. HARKIN. Absolutely not. CBO said today it would save $4.7 billion, considerably more than the underlying bill. Let there be no question about that.

The PRESIDING OFFICER. The time of the Senator from Iowa is expired.

Mr. DOMENICI. I yield back the balance of our time.

Mrs. MURRAY. Mr. President, the Harkin amendment to remove fraud and abuse from Medicare is a giant step in the right direction—saving taxpayer money, urging us toward a balanced budget, and striving for greater efficiency.

However, the amendment is based on a concept both necessary and controversial. This amendment would require competitive bidding for Medicare part B items and services.

I have heard from owners of numerous medical supply businesses in my State who tell me they will be driven out of business by this amendment provision. They tell me services will be cut to rural areas. They tell me services involved with setting up and instructing about medical equipment is essential for patients, and will be threatened under this amendment.

Senator HARKIN has made changes to his amendment language, to maintain access to services for rural and underserved areas. He has made changes to assure quality assurance standards, so that large companies are not able to undercut their competition simply by providing shoddy supplies and equipment.

He points out the large difference between prices for supplies at Veterans Administration hospitals—which have competitive bidding—and prices from providers under Medicare part B. He makes a good case for solving some of our Medicare cost problems with a clear goal to find efficiency through competitive bidding, rather than just a budget decision.

In light of these changes, I will vote for the amendment, but I want to be sure that we are doing everything we can to make this transition survivable for small business.

Mr. GRAHAM. Mr. President, I ask unanimous consent for 10 seconds in order to have items printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I would like to have printed in the RECORD various documents, including a letter from the inspector general of the Department of HHS and statements by the Secretary of the Department and the Attorney General. They all go to the point that we need to have as strong an antifraud position as possible in the Senate version of the Medicare bill, because the House version is woefully weak. I support the joint efforts of my colleagues from Iowa and Maine in assuring that goal.

Mr. President, I ask unanimous consent the documents be printed in the RECORD.

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL,

Washington, DC, September 29, 1995.

Re H.R. 2389: ''Safeguarding Medicare Integrity Act of 1995.''

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: You requested our views regarding the newly introduced H.R. 2389, which we understand may be considered in the deliberations concerning the ''Medicare Preservation Act.'' We strongly support the expressed objective of H.R. 2389 of reducing the fraud and abuse which plagues the Medicare program. The proposed legislation contains some meritorious provisions. However, if enacted, certain major provisions of H.R. 2389 would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice.

The General Accounting Office estimates the loss to Medicare from fraud and abuse at 10 percent of total Medicare expenditures, or about $18 billion. We recommend two steps to decrease this problem: strengthen the relevant legal authorities, and increase the funding for law enforcement efforts. Some worthy concepts have been included in H.R. 2389, and we support them. For example, we support:

A voluntary disclosure program, which allows corporations to blow the whistle on themselves if upper management finds wrongdoing has occurred, with carefully defined relief for the corporation from qui tam suits under the False Claims Act (but not waiver by the Secretary of sanctions);

Minimum periods of exclusion (mostly parallel with periods of exclusion currently in regulations) with respect to existing exclusion authorities from Medicare and Medicaid; and

Increases in the maximum penalty amounts which may be imposed under the civil monetary penalty laws regarding health care fraud.

As stated above, however, H.R. 2389 contains several provisions which would seriously erode our ability to control Medicare fraud and abuse, including most notably: making the civil monetary penalty and anti-kickback laws considerably more lenient, the unprecedented creation of an advisory opinion mechanism on intent-based statutes, and a trust fund concept which would fund only private contractors (not law enforcement). Our specific comments on these matters follow.

1. MAKING CIVIL MONETARY PENALTIES FOR FRAUDULENT CLAIMS MORE LENIENT BY RELIEVING PROVIDERS OF THE DUTY TO USE REASONABLE DILIGENCE TO ENSURE THEIR CLAIMS ARE TRUE AND ACCURATE

Background: The existing civil monetary penalty (CMP) provisions regarding false claims were enacted by Congress in the 1980's as an administrative remedy, with cases tried by administrative law judges with appeals to Federal court. In choosing the ''knows or should know'' standard for the mental element of the offense, Congress chose a standard which is well defined in the *Restatement of Torts. Second,* Section 12. The term ''should know'' places a duty on health care providers to use ''reasonable diligence'' to ensure that claims submitted to Medicare are true and accurate. The reason this standard was chosen was that the Medicare system is heavily reliant on the honesty and good faith of providers in submitting their claims. The overwhelming majority of claims are never audited or investigated.

Note that the ''should know'' standard does not impose liability for honest mistakes. If the provider exercises reasonable diligence and still makes a mistake, the provider is not liable. No administrative complaint or decision issued by the Department

of Health and Human Services (HHS) has found an honest mistake to be the basis for CMP sanction.

H.R. 2389 Proposal: Section 201 would redefine the term ''should know'' in a manner which does away with the duty on providers to exercise reasonable diligence to submit true and accurate claims. Under this definition, providers would only be liable if they act with ''deliberate ignorance'' of false claims or if they act with ''reckless disregard'' of false claims. In an era when there is great concern about fraud and abuse of the Medicare program, it would not be appropriate to relieve providers of the duty to use ''reasonable diligence'' to ensure that their claims are true and accurate.

In addition, the bill treats the CMP authority currently provided to the Secretary in an inconsistent manner. On one hand, it proposes an increase in the amounts of most CMPs which mnay be imposed under the Social Security Act. Yet, it would significantly curtail enforcement of these sanction authorities by raising the level of culpability which must be proven by the Government in order to impose CMPs. It would be far preferable not to make any changes to the CMP statutes at this time.

2. MAKING THE ANTIKICKBACK STATUTE MORE LENIENT BY REQUIRING THE GOVERNMENT TO PROVE THAT THE SIGNIFICANT INTENT OF THE DEFENDANT WAS UNLAWFUL

Background: The anti-kickback statute makes it a criminal offense knowingly and willfully (intentionally) to offer or receive anything of value in exchange for the referral of Medicare or Medicaid business. The statute is designed to ensure that medical decisions are not influenced by financial rewards from third parties. Kickbacks result in more Medicare services being ordered than otherwise, and law enforcement experts agree that unlawful kickbacks are very common and constitute a serious problem in the Medicare and Medicaid programs.

The two biggest health care fraud cases in history were largely based on unlawful kickbacks. In 1994, National Medical Enterprises, a chain of psychiatric hospitals, paid $379 million for giving kickbacks for patient referrals, and other improprieties. In 1995, Caremark, Inc, paid $161 million for giving kickbacks to physicians who ordered very expensive Caremark home infusion products.

Most kickbacks have sophisticated disguises, like consultation arrangements, returns on investments, etc. These disguises are hard for the Government to penetrate. Proving a kickback case is difficult. There is no record of trivial cases being prosecuted under this statute.

H.R. 2389 Proposal: Section 201 would require the Government to prove that ''the significant purpose'' of a payment was to induce referrals of business. The phrase ''the significant'' implies there can only be one ''significant'' purpose of a payment. If so, at least 51 percent of the motivation of a payment must be shown to be unlawful. Although this proposal may have a superficial appeal, if enacted it would threaten the Government's ability to prosecute all but the most blatant kickback arrangements.

The courts interpreting the anti-kickback statute agree that the statute applies to the payment of remuneration ''if *one purpose* of the payment was to induce referrals.'' *United States* v. *Greber,* 760 F.2d 68, 69 (3d Cir. 1985) (emphasis added). If payments were intended to induce a physician to refer patients, the statute has been violated, even if the payments were also intended (in part) to compensate for legitimate services. Id. at 72. See also: *United States* v. *Kats,* 871 F.2d 105, 108 (1989); *United States* v. *Bay State Ambulance,* 874 F.2d 20, 29–30 (1st Cir. 1989).

The proposed amendment would overturn these court decisions.

However, the nature of kickbacks and the health care industry requires the interpretation adopted by Greber and its progeny. To prove that a defendant had the improper intent necessary to violate the anti-kickback statute, the prosecution must establish the defendant's state of mind, or intent. As with any intent-based statute, the prosecution cannot get directly inside the defendant's head. The prosecution must rely on circumstantial evidence to prove improper intent. Circumstantial evidence consists of documents relevant to the transaction, testimony about what the defendant said to business associates or potential customers, etc. These types of evidence are rarely clear about the purposes and motivations of the defendant. The difficulties of establishing intent are multiple by the complexity, size, and dynamism of the health care industry, as well as the sophistication of most-kickback scheme participants. Documents are ''pre-sanitized'' by expert attorneys. Most defendants are careful what they say. In most kickback prosecutions, the Government has a difficult task to prove beyond a reasonable doubt that even one purpose of a payment is to induce referrals.

If the Government had to prove that inducement of referrals was ''the significant'' reason for the payment, many common kickback schemes would be allowed to proliferate. In today's health care industry, very few kickback arrangements involve the bald payment of money for patients. Most kickbacks have sophisticated disguises. Providers can usually argue that any suspect payment serves one or more ''legitimate purposes.'' For example, payments made to induce referrals often also compensate a physician who is providing health care items or services. Some payments to referral sources may be disguised as returns on investments. Similarly, many lease arrangements that indisputably involve the bona fide use of space incorporate some inducement to refer in the lease rates. In all of these examples, and countless others, it is impossible to quantify what portions of payments are made for nefarious versus legitimate purposes.

Where the defendant could argue that there was some legitimate purpose for the payment, the prosecution would have to prove beyond a reasonable doubt, through circumstantial evidence, that the defendant actually had another motive that was ''the significant'' reason. For the vast majority of the present-day kickback schemes, the proposed amendment would place in insurmountable burden of proof on the Government.

3. CREATION OF AN EASILY ABUSED EXCEPTION FROM THE ANTI-KICKBACK STATUTE FOR CERTAIN MANAGED CARE ARRANGEMENTS

Background: There is great variety and innovation occurring in the managed care industry. Some managed care organizations, such as most health maintenance organizations (HMOs) doing business with Medicare, consist of providers who assume financial risk for the quantity of medical services needed by the population they serve. In this context, the incentive to offer kickbacks for referrals of patients for additional services is minimized, since the providers are at risk for the additional costs of those services. If anything, the incentives are to reduce services. Many other managed care organizations exist in the fee for service system, where the traditional incentives to order more services and pay kickbacks for referrals remain. In the fee for service system, the payer (like Medicare and private insurance plans) is at financial risk of additional services, not the managed care organization. While broad protection from the anti-kick statute may be appropriate for capitated, at-risk entities like the HMO described above, such protection for managed care organizations in the fee for service system would invite serious abuse.

H.R. 2389 Proposal: Section 202 would establish broad new exceptions under the anti-kickback statute for ''any capitation, risk-sharing, or disease management program.'' The lack of definition of these terms would result in a huge opportunity for abusive arrangements to fit within this proposed exception. What is a ''disease management program?'' Does not that term include most of health care?

Nefarious organizations could easily escape the kickback statute by simply rearranging their agreements to fit within the exception. For example, if a facility wanted to pay doctors for referrals, the facility could escape liability by establishing some device whereby the doctors share in the business risk of profit and loss of the business (i.e., they would share some risk, at least theoretically). Then, the organization could pay blatant kickbacks for every referral with impunity.

If the concern is that the kickback statute is hurting innovation, as observed above, there is now an explosion of innovation in the health care industry, especially in managed care. No one in Government is suggesting that HMOs or preferred provider arrangements, etc., formed in good faith, violate the kickback statute. There has never been any action against any such arrangement under the statute.

4. INAPPROPRIATE EXPANSION OF THE EXCEPTION TO THE ANTI-KICKBACK STATUTE FOR DISCOUNTS

Background. Medicare/Medicaid discounts are beneficial and to be encouraged with one critical condition: That Medicare and/or Medicaid receive and participate fully in the discount. For example, if the Medicare reasonable charge for a Part B item or service is $100, Medicare would pay $80 of the bill and the copayment would be $20. If a 20 percent discount is applied to this bill, the charge should be $80, and Medicare would pay $64 (80 percent of the $80) and the copayment would be $16. If the discount is *not* shared with Medicare (which would be improper), the bill to Medicare would falsely show a $100 charge. Medicare would pay $80, but the copayment would be $0. This discount has not been shared with Medicare.

Many discounting programs are designed expressly to transfer the benefit of discounts away from Medicare. The scheme is to give little or no discount on an item or service separately billed to Medicare, and give large discounts on items *not* separately billed to Medicare. This scheme results in Medicare paying a higher percentage for the separately billed item or service than it should.

For example, a lab offers a deep discount on lab work for which Medicare pays a predetermined fee (such as lab tests paid by Medicare to the facility as part of a bundled payment), if the facility refers to the lab its separately billed Medicare lab work, for which no discount is given. The lab calls this a ''combination'' discount, yet is a discount on some items and not on others. Another example is where ancillary or noncovered items are furnished free, if a provider pays full price for a separately billed item, such as where the purchase of incontinence supplies is accompanied by a ''free'' adult diaper. Medicare has not shared in these combination discounts.

H.R. 2389 Proposal. Section 202 would permit discounts on one item in a combination to be treated as discounts on another item in the combination. This sounds innocent, but it is not. Medicare would be a big loser. Discounting should be permissable for a supplier

to offer a discount on a combination of items or services, so long as every item or service separately billed to Medicare or Medicaid receives no less of a discount than is applied to other items in the combination. If the items or services separately billed to Medicare or Medicaid receive *less* of a discount than other items in the combination, Medicare and Medicaid are not receiving their fair share of the discounts.

5. UNPRECEDENTED MECHANISM FOR ADVISORY OPINIONS ON INTENT-BASED STATUTES, INCLUDING THE ANTI-KICKBACK STATUTE

Background: The Government already offers more advice on the anti-kickback statute than is provided regarding any other criminal provision in the United States Code.

Industry groups have been seeking advisory opinions under the anti-kickback statute for many years, with vigorous opposition by the Department of Justice (DOJ), and the HHS Office of Inspector General (OIG) under the last three administrations, as well as the National Association of Attorneys General. In 1987, Congress rejected calls to require advisory opinions under this statute. As a compromise, Congress required HHS, in consultation with the Attorney General, to issue ''safe harbor'' regulations describing conduct which would not be subject to criminal prosecution or exclusion. See Section 14 of Public Law 100–93.

To date, the OIG has issued 13 final anti-kickback ''safe harbor'' rules and solicited comment on 8 additional proposed safe harbor rules, for a total of 21 final and proposed safe harbors. Over 50 pages of explanatory material has been published in the Federal Register regarding these proposed and final rules. In addition, the OIG has issued six general ''fraud alerts'' describing activity which is suspect under the anti-kickback statute. Thus, the Government gives providers guidance on what is clearly permissible (safe harbors) under the anti-kickback statute and what we consider illegal (fraud alerts).

H.R. 2389 Proposal. HHS would be required to issue advisory opinions to the public on the Medicare/Medicaid anti-kickback statute (section 1128B(b) of the Social Security Act), as well as all other criminal authorities, civil monetary penalty and exclusion authorities pertaining to Medicare and Medicaid. HHS would be required to respond to requests for advisory opinions within 30 days.

HHS would be authorized to charge requesters a user fee, but there is no provision for this fee to be credited to HHS. Fees would therefore be deposited in the Treasury as miscellaneous receipts.

Major problems with anti-kickback advisory opinions include:

Advisory opinions on intent-based statutes (such as the anti-kickback statute) are impractical if not impossible. Because of the inherently subjective, factual nature of intent, it would be impossible for HHS to determine intent based solely upon a written submission from the requestor. Indeed, it does not make sense for a requestor to ask the Government to determine the requestor's own intent. Obviously, the requester already knows what their intent is.

None of the 11 existing advisory opinion processes in the Federal Government provide advisory opinions regarding the issue of the requestor's intent. An advisory opinion process for an intent-based statute is without precedent in U.S. law.

The advisory opinion process in H.R. 2389 would severely hamper the Government's ability to prosecute health care fraud. Even with appropriate written caveats, defense counsel will hold up a stack of advisory opinions before the jury and claim that the defendant read them and honestly believed (however irrationally) that he or she was not violating the law. The prosecution would have to disprove this defense beyond a reasonable doubt. This will seriously affect the likelihood of conviction of those offering kickbacks.

Advisory opinions would likely require enormous resources and many full time equivalents (FTE) at HHS. The user fees in the bill would go to the Treasury, not to HHS. Even if they did go to HHS, appropriations committees tend to view them as offsets to appropriations. There are no estimates of number of likely requests, number of FTE required, etc. Also, HHS is permanently downsizing, even as it faces massive structural and program changes. The possible result of the bill is a diversion of hundreds of anti-fraud workers to handle the advisory opinions.

For the above reasons, DOJ, HHS/OIG and the National Association of Attorneys General strongly oppose advisory opinions under the anti-kickback statute, and all other intent-based statutes.

6. CREATION OF TRUST FUND MECHANISM WHICH DOES NOT BENEFIT LAW ENFORCEMENT

Background: In our view, the most significant step Congress could undertake to reduce fraud and abuse would be to increase the resources devoted to investigating false claims, kickbacks and other serious misconduct. It is important to recognize that the law enforcement effort to control Medicare fraud is surprisingly small and diminishing. There is evidence of increasing Medicare fraud and abuse, and Medicare expenditures continue to grow substantially. Yet, the staff of the HHS/OIG, the agency with primary enforcement authority over Medicare, has declined from 1,411 employees in 1991 to just over 900 today. (Note: 259 of the 1,411 positions were transferred to the Social Security Administration). Approximately half of these FTE are devoted to Medicare investigations, audits and program evaluations. As a result of downsizing, HHS/OIG has had to close 17 OIG investigative offices and we now lack an investigative presence in 24 States. The OIG has only about 140 investigators for all Medicare cases nationwide. By way of contrast, the State of New York gainfully employs about 300 persons to control Medicaid fraud in that State alone.

Ironically, the investigative activity of OIG pays for itself many times over. Over the last 5 years, every dollar devoted to OIG investigations of health care fraud and abuse has yielded an average return of over $7 to the Federal Treasury, Medicare trust funds, and State Medicaid programs. In addition, an increase in enforcement also generates increased deterrence, due to the increased chance of fraud being caught. For these reasons, many fraud control bills contain a proposal to recycle monies recovered from wrongdoers into increased law enforcement. The amount an agency gets should not be related to how much it generates, so that it could not be viewed as a ''bounty.'' The Attorney General and the Secretary of HHS would decide on disbursements from the fund. We believe such proposals would strengthen our ability to protect Medicare from wrongdoers and at no cost to the taxpayers. The parties who actually perpetrate fraud would ''foot the bill.''

H.R. 2389 Proposal: Section 106 would create a funding mechanism using fines and penalties recovered by law enforcement agencies from serious wrongdoers. But none of the money would be used to help bring others to justice. Instead, all the funds would be used only by private contractors for ''soft'' claims review, such as, medical and utilization review, audits of costs reports, and provider education.

The above functions are indeed necessary, and they are now being conducted primarily by the Medicare carriers and intermediaries. Since the bill would prohibit carriers and intermediaries from performing these functions in the future, there appears to be no increase in these functions, but only a different funding mechanism.

These ''soft'' review and education functions are no substitute for investigation and prosecution of those who intend to defraud Medicare. The funding mechanism in H.R. 2389 will not result in any more Medicare convictions and sanctions.

In summary, H.R. 2389 would:

Relieve providers of the legal duty to use reasonable diligence to ensure that the claims they submit are true and accurate; this is the effect of increasing the Government's burden of proof in civil monetary penalty cases;

Substantially increase the Government's burden of proof in anti-kickback cases;

Create new exemptions to the anti-kickback statute which could readily be exploited by those who wish to pay rewards to physicians for referrals of patients;

Create an advisory opinion process on an intent-based criminal statute, a process without precedent in current law; since the fees for advisory opinions would not be available to HHS, our scarce law enforcement resources would be diverted into hiring advisory opinion writers; and

Create a fund to use monies recovered from wrongdoers by law enforcement agencies, but the fund would not be available to assist the law enforcement efforts; all the monies would be used by private contractors only for ''soft'' payment review and education functions.

In our view, enactment of the bill with these provisions would cripple our ability to reduce fraud and abuse in the Medicare program and to bring wrongdoers to justice.

Thank you for your attention to our concerns.

Sincerely,

JUNE GIBBS BROWN,
Inspector General.

PRESS CONFERENCE OF ATTORNEY GENERAL JANET RENO ON HEALTH CARE FRAUD, OCTOBER 18, 1995

Attorney General RENO. Thank you, Secretary Shalala.

The House Medicare bill would make it more difficult for us to prosecute medical providers for fraudulent conduct against patients and the Medicare system. These provisions are totally inconsistent with the provisions in the Senate bill, which would facilitate our law enforcement efforts against health care fraud that harms us all, and particularly our most vulnerable.

I understand that some members of the House have indicated that law enforcement should not be criminally prosecuting health care providers who engage in fraud. I just don't understand that, for I believe that health care fraud is so detrimental to the health and to the pocketbook of all Americans that I made health care fraud one of my priorities in the Department of Justice. I believe perpetrators of health care fraud should not be immune from criminal prosecution because they commit a crime in an office, in a boardroom, in a laboratory, rather than in the street. White collar crooks who pay or take kickbacks endanger the health of patients and steal money from us all.

Experts estimate it may cost Americans as much as $100 billion a year. That is why we need stronger, not weaker, provisions in the House bill. The Senate bill, under the leadership of Senator Cohen and with bipartisan support, provides those strengthened provisions.

Particularly at this time, we need to preserve every Medicare trust fund dollar; we cannot allow Medicare money to be spent on bribes paid to doctors and others as inducement for the referral of Medicare patients. Even more importantly, we cannot allow financial inducements to corrupt the professional judgment of medical providers—providers who Americans have been taught to trust. Decisions which physicians make day in and day out—whether and where to hospitalize a patient, what laboratory tests to order, what surgical procedure to perform, what drug to prescribe, and how long to keep a patient in a psychiatric facility—affect the health and well-being of our elderly patients and our children. Allowing these decisions to be made under the influence of kickbacks is just plain wrong.

The House bill would place a very high, additional burden on the Government in its attempts to prosecute those who pay or receive kickbacks for the purpose of inducing the referral of Medicare business. Existing law requires the Government to prove that one purpose of the kickback was to induce the referral of health care business. The language of the House bill would require that the Government prove that the payment was made for the significant purpose of inducing the referral. That's language that would immunize arrangements that are dressed up to disguise the payor's motive. This would seriously undermine our efforts and it would place beyond the reach of prosecution many kickbacks which are calculated to induce referrals and which adversely affect the judgment of medical providers. From the perspective of Federal law enforcement and, I believe, from the perspective of patients who seek their doctors' advice, this result is simply not acceptable.

Ultimately, this isn't a choice between prosecuting violent crime and prosecuting health care fraud. Both of them do real harm to real people and both deserve vigorous enforcement action. I hope that the House legislation will support, not undermine, our efforts.

QUESTION. Why are the Republicans gutting the statutes?

Attorney General RENO. You would have to ask them, but I have heard it said that they said we shouldn't prosecute these cases while we have robbers and murderers on our streets. And my response is we need to do both with vigor.

QUESTION. Secretary Shalala, what's your theory about why this is happening up in the House?

Secretary SHALALA. Well, I have long ago learned not to anticipate the motivations, but they clearly are weakening our ability to get fraud out of the system, particularly—it's particularly damaging during an era, as the Attorney General pointed out, where we need to squeeze every dollar we can out of Medicare to invest in the trust fund. And the last things we should be doing is wasting money or letting people rip off the program.

QUESTION. [inaudible] uniform deadly health policy that you approved yesterday. Tell us, do you think it will clear up some of the confusion left over from the Ruby Ridge damage?

Attorney General RENO. Again, I think this is an important step forward because for the first time, all of the major law enforcement agencies in the Federal Government have joined together in a uniform policy. And I think it will help people to understand when deadly force can be used. It will apply to each agency and I am very delighted about that.

QUESTION. What is the real change that this policy makes?

Attorney General RENO. This policy will—the real change.

QUESTION. What's the difference from the way it would be.

Attorney General RENO. DIFFERENT DEPARTMENTS HAD DIFFERENT PROVISIONS AND THIS CONSOLIDATED IN ONE, I THINK, A VERY FIRM STATEMENT ON THE POLICY OF BOTH THE TREASURY AGENCY AND THE DEPARTMENT OF JUSTICE.

QUESTION. What tangible impact do you expect the changes to have on the deadly force policy.

Attorney General RENO. I think it will enable those enforcement officers involved to understand when they can and can't use deadly force and I think the message will be clear.

QUESTION. Secretary Shalala, will you ask the President to veto this bill unless this is modified?

Secretary SHALALA. THERE ARE SO MANY PROVISIONS IN THE REPUBLICANS BILL THAT I HAVE ALREADY SENT A LETTER TO THE HILL, INDICATING THAT IF THEY ADOPT THE BILL AS IT'S NOW WRITTEN THAT I WILL RECOMMEND THAT THE PRESIDENT VETO IT. I WILL JOIN WITH THE ATTORNEY GENERAL AFTER WE REVIEW THESE PROVISIONS IN AN ADDITIONAL COMMENT FOR THE PRESIDENT, ADVISING HIM ON THE BILL. BUT THESE ARE SIMPLY UNACCEPTABLE AND I THINK THAT'S OUR POINT TODAY.

QUESTION. Are all these are provisions for Medicare and Medicaid violations only or do some of them include kickback statutes that cover general medical operations, not Government programs?

Attorney General RENO. No, it covers some Government programs. We would like to see it expanded to others: to the Federal Health employees benefits program, to the CHAMPUS program on behalf of the Department of Justice.

QUESTION. But it doesn't cover kickbacks——

Attorney General RENO. In the private sector.

QUESTION [continuing]. Not involving Medicare or Medicaid?

Attorney General RENO. That's correct.

QUESTION. Do you know, as a practical matter, how the change in the standard of proof would affect the prosecution?

Secretary SHALALA. I think the cases that we gave you as an example we would probably not be able to prosecute.

Attorney General RENO. If I can prove one purpose is to induce the referral of Medicare business, that's one thing. But to have to prove that the significant purpose is to induce the referral of Medicare business significantly heightens the standard. I think it produces confusion as to what is meant by significant. And I think it undermines what the kickback statute is trying to prevent.

Any time you bribe someone to get business you are impairing or presenting a chance for the impairment of judgment. That should never—the fact that you get money for referring business, particularly medical business, should never be a factor in the physicians' or the providers' judgment. It should be what is in the best interest of that patient, what is the most cost-effective medical treatment. And a significant purpose or one purpose, it is critically important that there not be bribery to secure Medicare business.

QUESTION. How does that, in turn, make it harder to prosecute?

Attorney General RENO. I might be able to prove that it is one purpose, but having to prove that it is the significant purpose heightens the standards of proof.

Secretary SHALALA. In fact, the Inspector Generals—all of them have signed on to a letter to the Hill that basically said it would bring those kinds of cases to a standstill because it raises the bar pretty high.

QUESTION. It sounds like it would make it pretty easy for those involved in the kickbacks to get around it, doing something illegal by masking and not making——

Attorney General RENO. All they would have to do is disguise it and say it's for this reason or for that reason or it has something to do with the patient's care and I might not be able to prove that it is a significant purpose. It has that chance of disguising what is really a bribe.

QUESTION. Attorney General Reno, on another subject, what is the Justice Department's position on the U.S. Sentencing Commission's guidelines on crack cocaine versus powder cocaine and the pending legislation that deals with that?

Attorney General RENO. We have said and made clear that prosecutors, police officers, and most of all, the residents of communities across this nation that have been impacted by crack cocaine, understand that the marketing and distribution systems and nature of the drug have had a terrible, terrible impact on many neighborhoods and that its impact reflects the need to have some distinction in the manner in which crack is treated. But the Justice Department has made clear that it favors a review of the 101 ratio, to adjust it, to make it fairer.

It is our hope that legislation that is pending now which rejects the one-to-one ratio because of the impact on communities across this nation also would provide—ask the Sentencing Commission to study it again in this coming year to come up with a recommendation that reflects the impact of crack on the community but also achieves fairness.

QUESTION. What would you suggest would be a good ratio?

Attorney General RENO. We are going to be reviewing with all concerned—as part of—I serve as part of the ex officio members of the Sentencing Commission—that balance.

QUESTION. Secretary Shalala, given that the [inaudible] is taking a completely different approach, isn't there every reason to believe it will be worked out in Congress?

Secretary SHALALA. We long ago have learned not to depend on one House versus another House. I think we are pointing the contrast out between this House bill, which is going to the floor tomorrow, and our ability to work in a bipartisan manner with the Senate. Obviously, we hope in conference we will be able to work it through, but we want to make it very clear that what the House is doing is unacceptable. And most members of Congress probably don't know what's in the bill, since it was moved so quickly.

QUESTION. Have you considered asking the American Medical Association to join you in urging the Republicans to change this?

Secretary SHALALA. There are numerous organizations that have now spoken out on this issue. Most of them have been the State Attorney General, for example, and the Inspector Generals. The American Medical Association, with a handful of important exceptions, have joined us on all issues that are related to fraud and abuse because they are absolutely opposed to, number one, having to police themselves; and number two, I think they very much favor anything we can do to help them to clean up the profession.

QUESTION. So where exactly are they on this?

Secretary SHALALA. You will have to go ask them.

QUESTION. Are you talking about the American Medical Association or American medical associations of various types?

Secretary SHALALA. Well, of various types.

QUESTION. Not the American Medical Association?

Secretary SHALALA. I don't know the position of the AMA at this moment.

QUESTION. [inaudible.]

Secretary SHALALA. Well, the self-referral changes that are being referenced is whether

a doctor can own a laboratory and then refer his own patients to a laboratory in which he has a financial interest. That law was changed a number of years ago because of the abuse that was found in the system. There were 45 percent more referrals if the doctors owned the lab. And that was barred by the law. And the American Medical Association has favored repealing the law which we are, of course, opposed to.

QUESTION. Are there any examples of fraud cases that stand out that would be good to pinpoint, related to this?

Attorney General RENO. One of the cases—where is Jerry Stern—is NME case of last year. Our recovery in that case was $379 million and that was based in significant part on this provision that we are trying to defend today in terms of kickbacks.

QUESTION. Do you have any idea what would have happened had the law been [inaudible]?

Attorney General RENO. I think, again, you can't quantify it. But any time you have to prove that some—rather than just one purpose, that it was the significant purpose, you raise the bar real high. Thank you.

(Whereupon, at 1:55 p.m., the press conference adjourned.)

Mr. DOMENICI. Mr. President, could I ask if it will be in order to ask for the yeas and nays or to table the Harkin amendment even if we now proceed to the amendment of the Senator from Arizona?

The PRESIDING OFFICER. It will be in order to do that when the amendment recurs for a vote.

The Senator from Arizona.

AMENDMENT NO. 2971

(Purpose: To eliminate corporate welfare in Federal programs)

Mr. MCCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. FEINGOLD, Mr. THOMPSON, Mr. KERRY, and Mr. FAIRCLOTH, proposes an amendment numbered 2971.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. MCCAIN. Mr. President I yield myself 4 minutes of the 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, this is a bipartisan amendment, which has been endorsed by the Citizens Against Government Waste and Citizens for a Sound Economy, which would terminate or substantially reform a dozen Federal programs identified by the Progressive Policy Institute and the Cato Institute as amongst the most egregious forms of corporate welfare in the Federal budget. These amount to savings of about $60 billion over the next 7 years. They are the Marketing Promotion Program, the advanced light water reactor, Forest Road Construction Program, highway demonstrations, military export sales, broadcast spectrum auction, Export/Import Bank, the B–2 bomber, Travel and Tourism Administration, sub- and supersonic research——

Mr. ROCKEFELLER. Mr. President, will the Senator yield for a friendly inquiry?

Mr. MCCAIN. I only have 4 minutes, I say to my colleague.

Mr. ROCKEFELLER. May I have 5 seconds?

Mr. MCCAIN. If you ask unanimous consent, I will be glad to yield.

Mr. ROCKEFELLER. Can the Senate get a copy of your amendment now? We have nothing.

Mr. MCCAIN. Absolutely.

Mr. ROCKEFELLER. I do not want to embarrass the U.S. Senate.

Mr. MCCAIN. I will make sure the Senator gets a copy of the amendment.

Mr. DOMENICI. We delivered a copy of the amendment.

Mr. MCCAIN. A copy of the amendment, I understand, has been delivered to the Senator from West Virginia. I certainly understand his frustration if he did not have a chance to see the amendment.

Mr. President, continuing—sub- and supersonic research; terminates the NASA program which conducts aircraft design activities, which can be undertaken by the private sector; oil and gas research and development; rural electric utilities service.

Mr. President, there is nothing new about these programs. They are items we have been discussing on the floor of the Senate for many years. They each have one thing in common; in a time of fiscal necessity, we can no longer afford them.

We are considering historic legislation to place the Federal budget on a 7-year path toward balance and to reform unsustainable entitlement programs which threaten to bankrupt our Nation. If we are going to restore fiscal sanity and if we are going to ask poor people to take cuts in their programs, if we are going to reduce the rate of growth of many, many programs that have been designed as a safety net for those less well off in our society, if we are going to have credibility with the American people, we had better go after this corporate pork and we better do it soon. Otherwise, we will open ourselves to justifiable criticism that we take care of corporate America while we do not take care of citizens who are less fortunate than we in our society.

I think it is an important amendment. I think it is going to put the Senate on record as to exactly where we stand on some of these programs that have clearly, clearly not required Federal funding in order to continue.

We owe a debt of gratitude to the Cato Institute and Progressive Policy Institute. Although they represent different ideological perspectives, they joined together to identify corporate welfare programs and to articulate the destructive role that they play in the Federal budget and the economy.

As time is limited on debate, I offer these insights as offered by these groups. The Cato Institute says:

Corporate welfare is an enormous drain on the Federal Treasury for little economic benefit.

The Progressive Policy Institute says:

The President and Congress can break the [budget] impasse and substantially reduce most spending and projected deficits * * * if they are willing to eliminate or reform scores of special spending programs and tax provisions narrowly targeted to subsidize influential industries.

I reserve my 1 minute.

Mr. KENNEDY. Mr. President, at a time when deep cuts are being proposed in Medicare, Medicaid, education, the earned income tax credit, welfare benefits, and other important programs for senior citizens, children, and working families, it is essential to see that corporate welfare—government subsidies to wealthy corporations—bears its fair share of the sacrifices needed to put the Nation's fiscal house in order.

I welcome the opportunity to work with Senator MCCAIN and other Senators in this bipartisan effort. We have identified a dirty dozen examples of corporate welfare that ought to be ended or drastically reduced.

My hope is that the current efforts will become the foundation for a longer-term initiative to deal more effectively with the wider range of corporate welfare provisions on both the spending side and the tax side of the Federal budget.

At a time when we are cutting billions of dollars from health benefits for the elderly, it makes no sense to continue to give away billions to wealthy telecommunications corporations by failing to obtain fair market value by auctioning electronic spectrum.

At a time when we are imposing billions of dollars in taxes on our working families, it makes no sense to spend billions of dollars on additional B–2 bombers that the Pentagon doesn't want and the Nation doesn't need.

At a time when we are imposing new burdens on education, it makes no sense to confer excessive subsidies on oil and gas companies.

At a time when we are cutting benefits for the disabled, it makes no sense to continue to provide subsidies for major companies to market their goods overseas.

Our current amendment will end these and several other forms of corporate welfare. It also calls for a base-closing type Federal Commission to deal with this equally flagrant type of corporate welfare—the lavish Federal subsidies dispensed to wealthy individuals and corporations through the Tax Code.

Over the next 7 years, these tax subsidies will cost the Treasury a total of $4.5 trillion. Yet they undergo no annual review during the appropriations process or during reconciliation. Once enacted, they can go on forever, with no effective oversight by Congress.

The Commission we are proposing will examine all existing tax subsidies and make recommendations to Congress that will be subject to a ''yes'' or ''no'' vote by the Senate and the House.

I commend Senator MCCAIN and our other colleagues for their work on this important issue, and I am hopeful that the Senate will approve our amendment. Our action on this legislation is part of a longer-term initiative to insist on congressional scrutiny of all Federal subsidies.

At a time when so many individuals and families are being asked to bear a heavy burden of budget cuts, there should be no free rides for special interest groups and their cozy subsidies.

Mr. KOHL. Mr. President, I rise in reluctant support of the amendment from the Senator from Arizona to cut spending from 12 programs.

I am supporting the amendment because, at a time when we are debating a budget bill to cut programs and assistance for the most needy in our society, I find it hard to pass up an opportunity to cut billions of dollars from programs like the B–2 bomber, and oil and gas subsidies.

However, while I will support this amendment, I am extremely unhappy with the decision by the proponents of this amendment to cut loan programs for rural electric cooperatives, who depend on those funds to keep utility rates reasonable for rural residents.

I am equally unhappy with the choice of the proponents of this amendment to eliminate the Market Promotion Program, on the heels of the successful effort to eliminate the corporate subsidies from that program, and target it toward small businesses and cooperatives.

So while I must reluctantly vote in support of this amendment to cut billions of dollars, if it does prevail, I will work to have the Rural Utility Service loans and the Market Promotion Program restored in conference.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, this amendment has very broad jurisdictional problems with a whole series of committees. It is the opinion of this Senator that probably the primary committee of jurisdiction would again be the Finance Committee. Therefore, I will yield to a member of the Finance Committee, the Senator from West Virginia, for remarks to be included in our 5 minutes.

Mr. ROCKEFELLER. Mr. President, I appreciate the action of the ranking member of the Budget Committee.

This amendment which we have not yet—let me say first of all, it will be my hope that our side will not take a position on this, because we are simply unaware of what it is. In fact, it appears to be many, many things.

It starts out with the elimination of the Market Promotion Program for agriculture, I think. It appears to be part Agriculture, part Finance, part Commerce Committee. It gets into the termination of the Advanced Light Water Reactor Program. I am thoroughly unqualified to review that. It talks about timber access roads. That is an Energy Committee matter. It talks about United States Travel and Tourism, USTTA. That is something I strongly support. Other Members may not. I suspect the Senator from Arizona does not.

There is a private sector funding for certain research and development by NASA relating to aircraft performance. That is the formal title. What that means I have absolutely no idea, and I have no way of finding out in the next 2 or 3 minutes.

There are many other things—the recoupment of certain Department of Defense costs for equipment sold directly by contractors to foreign countries and international organizations.

So, my plea would be for all my colleagues to take this 21-page amendment, between the time now—having no position on it, as would be my recommendation to my ranking member on the Budget Committee—and the time that we vote, and Senators make up their minds as best they can.

I am absolutely unable, having had this for a period of 2½ minutes, to make heads or tails of it, since it is many things and, I suspect, many things to many people. This is not, it strikes me, in terms of process, one of the Senate's finer moments.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, following up the inquiry that was made just a few moments ago by the chairman of the committee, I would also presume we have not made up our minds on this side of the aisle on this amendment. I also assume that, without taking action now, it would not preclude us from making a point of order which might lie against this amendment at some future date before the vote is taken; is that correct?

The PRESIDING OFFICER. The point of order can be made when the amendment comes up again.

Mr. EXON. I thank the Chair.

Mr. DOMENICI. Does Senator MCCAIN have any additional time?

The PRESIDING OFFICER. The Senator has 51 seconds.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, for the benefit of the Senator from West Virginia, we did distribute this amendment much earlier today. I am sorry he did not get it.

Also, I would like to point out that Senators FEINGOLD, KERRY, and KENNEDY are also cosponsors of this amendment. So some Members on his side of the aisle obviously are aware of it.

I am also aware that a budget point of order can be lodged against this amendment, and I do not expect it to pass, Mr. President. I am being very frank. But I will tell you what. We are going to be on record as to what we support and what we do not support in the way of corporate pork and whether we are really willing to make the sacrifices necessary to reduce this unconscionable debt of $187,000 per child in America while we support corporations all over America with taxpayers' dollars.

Mr. ROCKEFELLER. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Arizona's time has expired.

Mr. ROCKEFELLER. Is there any time?

The PRESIDING OFFICER. There is a minute and 40 seconds available to the Senator from Nebraska.

Mr. EXON. We have 40 seconds left.

The PRESIDING OFFICER. A minute and 40 seconds.

Mr. EXON. I am prepared to yield that back in a moment.

Mr. McCAIN. The Senator from West Virginia——

Mr. EXON. I see the majority leader in the Chamber. Is he seeking recognition?

Mr. DOLE. No.

Mr. EXON. I yield back the remainder of our time.

I thought Senator ROCKEFELLER was finished.

Mr. ROCKEFELLER. In responding to the Senator from Arizona and what I am sure is a very good-faith—I know is a very good-faith effort, if Senators FEINGOLD, KENNEDY and others are in fact cosponsors of it, one would never know by looking at the amendment because only the name of the Senator from Arizona is listed. And this is part of what I am talking about. If we are going to make serious decisions about the enormous variety of programs, we have to do this in some kind of more intelligent way. Now, the rules may preclude us from doing that because the agreement has already been made, but this is many things to many people.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Has all time expired?

Mr. McCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska has 30 seconds.

Mr. EXON. Reserving the right to object, the yeas and nays are being requested. Again, I want to make it clear that would not preclude us from making a point of order before the vote is taken. That is correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. I thank the Chair.

Mr. DOMENICI. I thank the Senator from Arizona. We imposed on him this afternoon, having called down and you were not ready, and I apologize for that.

Mr. McCAIN. Is it appropriate for the Senator from Nebraska to make a

point of order at this point and we move to waive the point of order, or does that take place at the time of the vote?

Mr. EXON. I simply say we are looking at this. I do not know whether we are going make a point of order against this or not.

Mr. McCAIN. I thank the Senator.

Mr. EXON. We are simply reserving the right to do that at a certain time, and I will not give that up at this juncture.

The PRESIDING OFFICER. The Senator has that right.

Mr. DOMENICI. Parliamentary inquiry. Is it not Senator BYRD's amendment that is next pursuant to the previous agreement?

Mr. FORD. That would be the Senator's prerogative.

Mr. DOMENICI. I am just asking.

The PRESIDING OFFICER. The Chair has no specified list and therefore presumes it is to up to the managers of the bill.

Mr. EXON. Mr. President, Senator BYRD will be next in line, and I am pleased to yield to him whatever time we have on this amendment.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for up to 5 minutes.

AMENDMENT NO. 2972

(Purpose: To strike the reductions in highway demonstration projects and to provide an offsetting revenue increase)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. FORD, proposes an amendment numbered 2972.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 6002.

On page 1746, line 11, strike ''2001'' and insert ''2000''.

On page 1747, strike the matter between lines 7 and 8, and insert:

For calendar year:	The percentage is:
1995	100
1996	80
1997	60
1998	40
1999	20

Mr. BYRD. Mr. President, less than 4 years ago, Congress passed the Intermodal Surface Transportation Efficiency Act, ISTEA. That legislation modernized our Federal Aid Highway Program by targeting available resources on the most critical needs. The bill before us would rescind $712 million for certain highway projects funded in ISTEA and previous appropriation acts. This represents a substantial retreat from the commitments made in ISTEA and in those appropriations acts.

Mr. President, my amendment will restore full funding for these important highway projects in 48 States. By rescinding these Federal funds, the bill before us would require States to cough up an additional $712 million for these projects. In effect, this would cause States to have to increase their matching share from 20 percent to as much as 32 percent in order to complete these projects.

Currently, the Department of Defense shows a total unobligated balance in excess of $10 billion for ongoing military construction projects, yet no one—no one—suggests that we should rescind 15 percent of these unobligated balances in defense and thereby ensure that these projects cannot be completed.

If we seek to reduce our Federal budget deficit by worsening our investment deficit in our Nation's infrastructure, we will have done absolutely nothing to improve our national prosperity. We will only dig our Nation into a deeper hole characterized by excessively congested and deteriorating roads and bridges.

According to the Department of Transportation, there are currently more than 234,000 miles of nonlocal roads across the Nation which require improvements immediately or within the next 5 years. Additionally, 118,000 of the Nation's 575,000 bridges, more than one in five, are structurally deficient. Our current highway capacity is being stretched beyond its limits, and what is our response at the Federal level? Just as is the case with our Federal budget deficit, we are leaving the mess to our grandchildren.

To fully offset the effects of the restoration of these critical highway projects, my amendment includes a modification to section 12803 of the reconciliation bill which phases out the tax deductions presently allowed for the interest paid on company-owned life insurance policies over the period 1996 to 2001. Companies have used this loophole to earn profits at the expense of the taxpayer by insuring employees, then borrowing on the policy and deducting the interest on company tax returns. Both the Senate and House bills proposed to phase out this loophole.

My amendment would simply require the phaseout in the Senate bill to be completed in 4 years rather than 5 years. My proposal would retain the key employee exception as contained in the Senate bill. My amendment would restore highway moneys to 48 States, and I urge its adoption.

Now, Mr. President, I ask unanimous consent that Mr. BUMPERS and Mr. PRYOR be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Now, Mr. President, 48 States will lose money unless my amendment is adopted. They will lose money for highways. I do not blame the committee that had to meet its instructions and did so by rescinding $712 million in highway funds. But I have provided an offset, and therefore I hope that this amendment will be adopted.

I have received letters of support of my amendment from the American Road and Transportation Builders Association, the American Trucking Association, and the Associated General Contractors of America.

Mr. President, let me just read a few of those States that lose money. Alabama will lose $12.8 million; Arizona, $2.8 million; Arizona, $31.5 million; California, $43.8 million; Connecticut, $5 million; Florida, $27.9 million; Georgia, $10.8 million; Hawaii, $3 million; Idaho, $8 million; Illinois, $29 million; Indiana, $8 million; Iowa, $9 million; Kansas, $9 million; Kentucky, $4.6 million; Louisiana, $13.8 million; Maine, $10.9 million; Maryland, $12.6 million; Michigan, $23 million; Minnesota, $23.5 million; Mississippi, $2.9 million; Missouri, $9.3 million; Montana, $3 million; Nebraska, $2.8 million; Nevada, $5.8 million; New Hampshire, $4.3 million; New Jersey, $29.3 million; New York, $40 million——

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. BYRD. Mr. President, I have on each desk the table of the amount that the various States would lose. I ask unanimous consent that this table, along with three letters in support of my amendment, be printed in the RECORD. I urge adoption of the amendment.

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

HIGHWAY FUNDS TO BE RESTORED BY BYRD AMENDMENT

States	Appropriated demos	1982 act demos	1987 act demos	Unobligated ISTEA demos	Estimated fiscal 1996–1997 ISTEA demos	Total
Alabama	600,000	0	29,259	3,983,891	8,205,463	12,818,613
Alaska	0	0	0	0	0	0
Arizona	1,492,206	0	0	773,238	633,033	2,898,477
Arkansas	417,552	0	67,578	13,433,012	17,670,188	31,588,330
California	3,920,286	11,849	1,637,734	19,165,117	19,154,455	43,889,441
Colorado	0	0	0	90	150,475	150,565
Connecticut	100,200	0	324,603	531,450	4,119,907	5,076,160
Delaware	0	0	0	0	0	0
District of Columbia	0	0	812,253	2,069,040	1,146,724	4,028,017
Florida	3,233,284	0	2,547,679	12,885,327	9,317,009	27,983,299

HIGHWAY FUNDS TO BE RESTORED BY BYRD AMENDMENT —Continued

States	Appropriated demos	1982 act demos	1987 act demos	Unobligated ISTEA demos	Estimated fiscal 1996–1997 ISTEA demos	Total
Georgia	582,750	0	0	4,548,971	5,758,944	10,890,665
Hawaii	1,200,000	0	931,285	568,800	311,328	3,011,413
Idaho	0	0	17,587	4,455,415	3,652,915	8,125,917
Illinois	435,951	119,805	163,132	16,152,427	13,015,067	29,886,382
Indiana	866,448	0	15	2,459,368	4,924,171	8,250,002
Iowa	654,678	0	0	2,592,174	5,901,066	9,147,918
Kansas	2,287,280	0	0	3,624,030	3,787,824	9,699,134
Kentucky	1,662,456	0	0	1,827,894	1,120,780	4,611,130
Louisiana	1,725,000	0	2,997,515	5,475,780	3,630,344	13,828,639
Maine	0	0	0	1,291,604	9,708,244	10,999,848
Maryland	5,269,652	0	244,012	2,113,169	4,986,436	12,613,269
Massachusetts	438,000	0	598,349	559,320	306,139	1,901,808
Michigan	14,042,211	0	0	2,898,416	6,437,225	23,377,852
Minnesota	7,722,427	0	8,968	4,965,669	10,831,101	23,528,165
Mississippi	60,000	0	0	1,222,950	1,713,600	2,996,550
Missouri	96,000	0	0	1,812,401	7,475,659	9,384,060
Montana	640,542	0	0	1,429,242	933,984	3,003,768
Nebraska	0	0	0	1,576,152	1,298,237	2,874,389
Nevada	197,415	0	0	1,267,384	4,363,780	5,828,579
New Hampshire	1,159,504	0	640	1,571,425	1,665,604	4,397,173
New Jersey	6,306,751	0	2,350,069	10,125,842	10,528,075	29,310,737
New Mexico	1,318,693	0	38	0	560,390	1,879,121
New York	7,696,917	0	0	14,391,838	18,515,195	40,603,950
North Carolina	769,500	0	141,337	5,440,685	7,586,025	13,937,547
North Dakota	0	0	102,955	9,505	3,684,048	3,796,508
Ohio	1,159,275	0	1,306,292	12,078,132	8,206,606	22,750,305
Oklahoma	674,695	0	0	1,447,826	4,594,163	6,716,684
Oregon	98,954	0	80,300	5,208,840	2,386,848	7,774,942
Pennsylvania	6,949,575	0	2,446,078	56,843,233	45,750,168	111,989,054
Rhode Island	0	0	704,318	2,438,042	2,978,890	6,121,250
South Carolina	0	0	0	0	2,008,065	2,008,065
South Dakota	794,400	0	0	1,523,616	971,343	3,289,359
Tennessee	0	0	0	1,830,312	2,142,662	3,972,974
Texas	3,035,244	0	0	13,800,624	12,590,892	29,426,760
Utah	2,919,008	0	0	379,200	565,579	3,863,787
Vermont	0	0	0	1,655,358	1,037,760	2,703,118
Virginia	885,868	0	259,584	6,238,310	7,238,376	14,622,138
Washington	0	0	0	1,290,000	4,649,164	5,939,164
West Virginia	27,556,841	0	1,701,531	20,905,207	16,178,678	66,342,257
Wisconsin	0	0	0	0	3,709,992	3,709,992
Wyoming	0	0	0	0	1,037,760	1,037,760
American Samoa	0	0	90,479	113,760	119,342	323,581
Virgin Islands	321,600	0	0	1,263,900	1,042,948	2,628,448
Total	109,291,163	131,654	19,563,590	272,247,986	310,302,671	711,537,064

AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION,
Washington, DC, October 26, 1995.

DEAR SENATOR: The documented backlog of highway and bridge needs in the United States was estimated at more than $290 billion by the Department of Transportation in its 1993 report to the Congress. Despite this huge deficiency in infrastructure investment, the reconciliation bill (S. 1357) now before the Senate would reduce funding for highways by $522 million in fiscal year 1996 and an additional $165 million in fiscal year 1997.

The 4,000 members of the American Road & Transportation Buildings Association (ARTBA) strongly urge that you support an amendment to S. 1357 to be offered by Sen. Robert C. Byrd that would preserve existing funding levels.

Cutting highway funding at this time would be in conflict with the conference report on the fiscal 1996 transportation appropriations bill (H.R. 2002). That measure reflects the importance of highways to the country by increasing funding for their improvement. The federal highway program was, in fact, the only mode to receive a higher funding level than in fiscal 1995.

According to the Federal Highway Administration, America's highways provide 88 percent of the nation's personal transportation in addition to a large proportion of its commercial movement. Congress is expected shortly to approve designation of the National Highway System, a 159,000-mile network of roads intended to be the nation's backbone transportation system and the focus of federal highway investment in the years ahead. Clearly, this is no time to cutting already-inadequate funding for highway improvements. Furthermore, most of the proposed reduction is for activities supported by the Highway Trust Fund, a pay-as-you-go financing system supported by user fees. The sought budget savings can be found in other areas less crucial to this country's future.

ARTBA's nationwide membership is involved in the planning, design, construction, financing and operation of all forms of transportation facilities. It includes contractors, engineers and planners, equipment manufacturers, materials suppliers, public officials, financial institutions and educators. Again, we urge you to support Senator Byrd's amendment to S. 1357.

Sincerely,

T. PETER RUANE,
President & CEO.

AMERICAN TRUCKING ASSOCIATIONS,
Washington, DC, October 26, 1995.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: I am writing to indicate the support of the American Trucking Associations for your efforts to restore $712 million in badly needed highway funding.

A Department of Transportation report estimated that the backlong of highway and bridge needs in the United States was in excess of $290 million. The conference report on the FY '96 Department of Transportation Appropriations bill (H.R. 2002) recognized this problem by increasing highway funding. Your efforts to restore that funding is in line with the priorities set out in H.R. 2002.

We support your amendment to S. 1357, the Budget Reconciliation Act, and urge your Senate colleagues to approve this amendment.

Sincerely yours,

TIMOTHY P. LYNCH.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
Washington, DC, October 26, 1995.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: The 33,000 members of the Associated General Contractors of America strongly support your amendment to S. 1357 that will restore much needed funding for highway projects.

Your recognition of the problems that the existing provision (section 6002) will cause the highway program are greatly appreciated. As you are so keenly aware, your amendment restores $715 million in highway funding for 48 states (only Alaska and Delaware escape the cuts included in Section 6002). Elimination of this funding mid stream will simply delay needed construction and could cost as many as 36,000 jobs.

In addition to eliminating current funding for projects (many of which are under construction) that have been previously approved by both the House and Senate, Section 6002 also sets a bad precedent by using highway trust fund money to offset the general fund deficit and will adversely impact the baseline for highway funding which could lower the amount of resources made available for critical highway construction in the future.

Thank you for your continued vigilance in ensuring adequate investment in the Nation's Surface Transportation Programs.

Sincerely,

STEPHEN E. SANDHERR,
Executive Director,
Congressional Relations.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I was not privy to drafting the provisions in the Finance Committee, and from the Environment and Public Works Committee, I wonder if Senator CHAFEE might take half my time and explain this as he sees it.

Mr. CHAFEE. Mr. President, this provision that is referred to as a loophole was entirely legal over the years that it was enforced, and in the Finance Committee, after considerable

negotiation in what we are doing in retroactively repealing something, if you would, the belief was that doing it over 5 years was a fair method of proceeding.

And the belief was that to do it in 4 years—a very abbreviated time—was just not fair. So, Mr. President, this is an intricate, complicated system, and a complicated piece of legislation. But we felt in the Finance Committee that indeed there was considerable pressure to give a longer time to phase it out. But we arrived at 5 years thinking that was a fair way of doing it, and the 4 years just does pose a severe problem and difficulty upon those who chose to use this type of company-owned life insurance policies. So, Mr. President, that was the rationale for going to the 5 years.

Mr. BYRD. Would the Senator yield?

Mr. CHAFEE. Yes.

Mr. BYRD. Mr. President, the House phases it out in 4 years. The Senate phases it out in 5 years. So either way it gets phased out. I suggest we phase it out in 4 years, and apply that money to these infrastructure projects in 48 States of the country. Let us cast a vote for America and the future of America.

Mr. CHAFEE. Mr. President, I do not want to look at this in terms of whether we are voting for America or not. People would not want to stand up here and suggest they were not voting for America. I suspect they believe the amendments are for America.

What I am saying, Mr. President, is that we are doing something retroactively. And it was our belief that 5 years was the fair way. Now, I suppose you could do it in 1 year. But that does not make it any fairer. So, Mr. President, that was the basis on which we did the 5 years in the Finance Committee.

Mr. DOMENICI addressed the Chair.

How much time do I have remaining?

The PRESIDING OFFICER. Two minutes and 20 seconds.

Mr. DOMENICI. Mr. President, I would just make a couple of quick points. Senator BYRD knows that I have great respect for him and I am fully aware of his constant and persistent desire that we spend money on infrastructure. But I think the only possible way, assuming it is not subject to a point of order, that this amendment should be adopted is if the U.S. Senate thinks that the demonstration highway projects were a good thing.

The demonstration highway projects did not treat all States equally. As a matter of fact, by being demonstration projects, some States got a lot more than others. So the distinguished Senator is now looking at that and saying some States would lose and some States would gain, but this is not a formula where everyone was allowed demonstration projects. This is a nonformula.

The demonstrations were established by committee or by appropriation or in that way. And anybody interested in whether this is a fair distribution among our States can just look at the list which I do not chose to read here tonight, but there are some very disproportionate returns of money to certain States and very little to other States that should have the same amount on population and highways. But the demonstrations were not set out in any fair way in the beginning.

So if you think the highway demonstration programs were great, then obviously you ought to put them back in here whereas the committee decided that they did not think they ought to be in and we ought to save money. So that is going to be the issue. That is if it is not subject to a point of order. And the reason I say ''if,'' my instinct tells me it is, but then I think of who offered it, and I am quite sure he made sure it was not subject to a point of order.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DOMENICI. Yes.

Mr. BYRD. If we do not adopt this amendment, then we are retroactively wiping out those infrastructure projects in 48 States of this country. I hope the Senate will adopt the amendment. I did not mention Pennsylvania, $111 million; Ohio, $22 million; Texas, $29 million; Virginia, $14 million; West Virginia, $66 million. I have only read some of them.

Mr. DOMENICI. The Senator mentioned West Virginia?

Mr. BYRD. I mentioned West Virginia.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. DOMENICI. I am not going to ask for the yeas and nays or move to table. I will wait for the vote, the time that it comes up.

Senator CHAFEE, I believe, is the next one.

Does the Senator have a copy of Senator CHAFEE's amendment?

Mr. EXON. We do. I might say at this time, following Senator CHAFEE's presentation, I will yield our 5 minutes, which is the jurisdiction of the Finance Committee, to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask that the Chair would be good enough to tell when I have used 3 minutes.

As I understand it, we have 5 minutes on our side.

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. If the Chair could tell me at the end of 3 minutes, I would appreciate it.

The PRESIDING OFFICER. If the Senator is offering an amendment, he needs to send it to the desk.

AMENDMENT NO. 2973

(Purpose: To guarantee coverage under the medicaid program for low-income aged, blind, and disabled individuals eligible for supplemental security income benefits under title XVI of the Social Security Act)

Mr. CHAFEE. I am sending the amendment to the desk, an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. CONRAD, proposes amendment numbered 2973.

Mr. CHAFEE. Mr. President, I would ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 767, strike lines 12 through 15 and insert the following:

''(3) provide for making medical assistance available to any individual receiving cash benefits under title XVI by reason of disability (including blindness) or receiving medical assistance under section 1902(f) (as in effect on the day before the date of enactment of this Act); and''.

Mr. CHAFEE. Mr. President, I am offering this amendment on behalf of Senator CONRAD and myself. What it does, it guarantees Medicaid eligibility for low-income individuals with disabilities. Under the language reported by the Senate Finance Committee, States are required to provide coverage to persons with disabilities.

However, and here is the hitch—the States are given complete latitude in establishing the definition of who is disabled. It could be only those who are quadriplegics who are blind are considered disabled. I mean, they can have any definition the States wish. What our amendment does is it sets a minimum standard by requiring States to provide coverage to children and adults with disabilities who receive benefits under the Supplemental Security Income Program [SSI].

But here are the important words, the SSI Program, as amended by the welfare reform bill which we passed here a month or so ago, we passed here by a vote of 87 to 12. So this is a very restricted group. This is not the SSI group that we worry about that included substance abusers, for example. That is not in this category. Only the neediest individuals qualify for SSI. They all have incomes below the poverty level and indeed currently they have to—they cannot be above 75 percent of the poverty level and qualify. Now, this is a pretty low-income group.

Why is this amendment important? Without this requirement, States will have the ability to exclude from coverage a group of individuals who depend on this Medicaid coverage as their only source of health insurance coverage. There is no place else they can go. You say get private insurance. Well, they first cannot afford it. And second, they all have preexisting conditions, and so therefore would not be qualified.

Mr. President, there is no mandated benefit package in this proposal. These are the facts. We do not mandate a benefit package. We leave that up to the States. All we are saying is, you have to cover this group. And how do you describe this group? You describe them

by the SSI description as we had it in the welfare program. So, indeed, with no mandated benefit package, the States could say, ''For this group there will be one aspirin a year.'' That could be done. But at least you have to cover everybody in the group with whatever the benefit package is.

Mr. President, I think it is very important to remember that we are giving the States, over the next 7 years, $800 billion—$800 billion, Mr. President. And they are going to receive their allocations based on the fact of those whom they covered in 1995, and in the group that they covered in which they got their money are these disabled. So, Mr. President, these are a very, very low-income group in our society. They are being cared for very frequently by their parents and others, kept in the community. And without this safety net they would have to in many cases be institutionalized at a far higher cost. I hope my colleagues will join me in preserving this critical safety net.

I yield time to Senator CONRAD.

Mr. CONRAD. Mr. President, I am proud to join Senator CHAFEE in offering this amendment. Mr. President, simply put, this provides health care support to the most severely disabled individuals in our society. Senator CHAFEE and I received a letter of support from the Consortium for Citizens With Disabilities, 30 national organizations that work to support the disabled. They said, and I quote:

> We believe that your amendment to establish a minimum floor of eligibility for children and adults with disabilities is a fundamental component of ensuring a basic safety net for low-income people with severe disabilities.

Mr. President, health care is not an option for these people, it is a necessity. They have it today. They should not be at risk for losing it tomorrow.

During Finance Committee deliberation, we received this communication. It said:

> Mr. Senator, if you are a person with mental retardation, these services are not optional. Remember, this is a lifelong condition which cannot be cured like substance abuse or unemployment. Also remember, it is not a self-inflicted condition, but rather one that a person is born with.

Mr. President, States should not cut severely disabled people from Medicaid. That is the premise of this amendment. I hope our colleagues will support it.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, first, I want to compliment the Senator from Rhode Island, because actually it was the Senator from Rhode Island and myself in the Finance Committee who put up this amendment, which won 17 to 3, and then it sort of disappeared. It particularly disappeared with respect to the disabled. It should be understood the Senator is entirely correct in his amendment, and I urge my colleagues to support his amendment.

On the other hand, it is also important to understand that by voting for this amendment that we are not going to be making a prince out of a frog; that the underlying Medicaid bill which encompasses this amendment is, in the judgment of this Senator, a disaster.

This amendment will help. I do not want to in any way diminish that. This is pregnant women, children, and the disabled, and it is a guarantee. The guarantee was not there before.

The Senator is right when he says the States now have to make a determination under the current law what ''disabled'' means. Good heavens, 50 different definitions coming in on ''disabled.''

The point is, it is a good amendment in a bad bill. The States will still lose 30 percent of their Medicaid funding. In the case of my State, it is a little more than that. On nursing home protection, Federal standards are wiped out. That really does bring up the specter, and some say, ''Well, you are just making a fuss over this.'' What a fuss. The standards we passed in 1987 by which you could no longer tether, that is tie down, an elderly person in a nursing home or drug into passivity an elderly person, is wiped out. So that is now possible under the underlying bill.

These are terrible things. Children with primary care needs, early detection, early protection, no immunization—it is not a good bill. But the amendment is good and the Senator from Rhode Island has suggested an amendment that ought to be adopted.

So I just simply make that point and compliment the Senator significantly for now getting the word ''guaranteed'' coverage into the legislation. I compliment him on that and urge my colleagues to support the Senator's amendment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Has all time been used on the amendment before us?

The PRESIDING OFFICER. The Senator from Nebraska controls 1 minute, 50 seconds.

Mr. CHAFEE. Mr. President, if I could have just a portion of that.

Mr. EXON. I will be glad to yield half of it to my colleague.

Mr. DOMENICI. Wait a minute; wait a minute. How do we get all 10 minutes in favor of the amendment? I do not want to argue against it. You cannot allocate the time to the other side if they are in favor of the amendment. Is that not the rule? If it is not, I am mistaken.

Mr. EXON. I do not think the rule specifies that. But in a matter of fairness, I agree to the chairman's—who wishes to speak in opposition?

Mr. CHAFEE. Mr. President, it is such an outstanding amendment. I do not think there is any opposition.

Mr. DOMENICI. I am not so sure but you are right. But I want to make sure we do not have all 10 minutes. I thought we were going to save 5.

Mr. CHAFEE. Why do we not save time and just adopt it?

Mr. DOMENICI. We cannot do that right now. It may come to pass.

Mr. EXON. I yield half my time to the Senator from Rhode Island.

Mr. ROCKEFELLER. Will the Senator from Rhode Island yield? Will the Senator from Rhode Island correct the misstatement of the Senator from West Virginia about pregnant women, children and disabled as opposed to the elderly?

Mr. CHAFEE. I am going to stick what we have here, which is we are solely dealing with low-income individuals with disabilities. Mr. President, I tell you, when you are talking 75 percent of poverty, you are really talking about poor people.

But the key thing I want to stress here is these folks are being cared for in the community very frequently by their parents. And do not think these are 6-year-olds and their parents are 35. Their parents are frequently 65 and these individuals are 40 years old. But they are being cared for in the community, because they have this safety net of Medicaid coverage that is there in case they get ill. Otherwise, I am certain that they would end up in institutions at a far greater cost to the public and all of us.

So, Mr. President, I hope the amendment will be adopted.

Mr. COHEN. Will the Senator yield? I indicate my support for the amendment.

The PRESIDING OFFICER. Time has expired. If the manager wishes to speak in opposition, he is entitled to have 5 minutes restored in opposition.

Mr. DOMENICI. I do not choose to speak in opposition. Does any Senator want to speak in opposition? What I would like to do is take my 5 minutes and I would like to yield 2 minutes of that to Senator COHEN. He can speak in favor of it.

The PRESIDING OFFICER. Ten minutes has expired in support.

Mr. DOMENICI. I ask unanimous consent that the Senator have 2 minutes to speak in favor of it.

The PRESIDING OFFICER. The manager is entitled to 5 minutes in opposition. The Senator from Maine is recognized for 2 minutes.

Mr. COHEN. Mr. President, I thank my friend. I rise in support of the CHAFEE amendment. Senator CHAFEE has tried valiantly to include the poorest of the poor in our system, and for anyone to object to having the disabled included—I might say, it does not go far enough perhaps, because as I understand the Senator's amendment, it includes pregnant women and children and does not include elderly; it includes disabled but it leaves it up to the States to define what ''disabled'' is.

I know the Senator was eager to use the SSI determination for ''disabled.'' Is that the Senator's amendment?

Mr. CHAFEE. That is right. It has already been adopted. Pregnant women and children up to the age of 12 and 100

percent of poverty, that is covered. And also the disabled are to be covered, but the definition of ''disabled'' was not made.

Mr. COHEN. My understanding is now you have included the definition that has been acknowledged under the SSI determination.

Mr. CHAFEE. As changed by the welfare bill.

Mr. COHEN. Then please let me lend my strong support for that, and I want to thank my friend from New Mexico for allowing me a moment or two to express my support.

Mr. CHAFEE. Mr. President, is this the proper time to ask for the yeas and nays?

The PRESIDING OFFICER. It would be appropriate.

Mr. CHAFEE. I do so. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I want to thank everyone.

Several Senators addressed the Chair.

Mr. EXON. Mr. President, I thought he was next. I was mistaken. I believe Senator BREAUX is next.

I yield our 5 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 2963

(Purpose: To provide for a partially refundable child tax credit)

Mr. BREAUX. Mr. President, I have an amendment at the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 2963.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1469, beginning on line 2, strike all through page 1471, line 20, and insert the following:

SEC. 12001. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

''SEC. 35. CHILD TAX CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by paragraph (1) for a taxable year shall not exceed the sum of—

''(A) the tax imposed by this subtitle for the taxable year (reduced by the credits allowable against such tax other than the credit allowable under section 32), and

''(B) the taxes imposed by sections 3101 and 3201(a) and 50 percent of the taxes imposed by sections 1401 and 3211(a) for such taxable year.

''(b) ADJUSTED GROSS INCOME LIMITATION.—The aggregate amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by 20 percent for each $3,000 by which the taxpayer's adjusted gross income exceeds $60,000.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means any individual if—

''(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

''(B) such individual has not attained the age of 16 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

''(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(d) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 32 shall apply for purposes of this section.''

''(c) CONFORMING AMENDMENT.—The table of sections for such subpart C is amended by striking the item relating to section 35 and inserting the following new items:

''Sec. 35. Child tax credit.
''Sec. 36. Overpayments of tax.''

''(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BREAUX. Mr. President, my colleagues, the largest item in the Finance Committee bill, by far, is the $500 per child tax credit. It cost $141 billion over 7 years. That is a lot of money. Some people think we should not have a tax cut at all. But this bill is going to have a tax cut in it. The largest one is going to be a per child tax cut at $500 per child. I would think that all of us, if we know it is going to pass, should at least agree on one thing—the largest number of families that need it should get it.

Here is what my amendment does. It addresses a problem that is very real. Simply stated, the Republican proposal only is a credit against income tax. It is not a credit against the largest tax that people pay in this country, that is, the payroll tax. For 75 percent of American families, they pay more in payroll tax than in income tax. This child tax credit is not an offset against the payroll tax. This chart shows that. The blue line is the payroll taxes that people pay on average. The orange line is an estimate of their income tax.

So you see, families making $16,000, all the way up to families on this chart making almost $27,000, are paying far more in payroll taxes than they are paying in income taxes.

The figures show that under the Republican proposal, something like 44 percent of all the children in America would only get a partial or no credit at all, because the credit is only against the income tax. Many families do not even pay that much in income tax.

If you have a family that has two children, that is a $1,000 credit. But if they are only paying $700 or $500 in income tax, they do not get to use the credit. Therefore, simply stated, my amendment makes the $500 per child tax credit a credit against both the income tax or the payroll tax. We spend the same amount of money—not a dime more, not a dime less. But we cover 44 percent more children. We cover about 31 million more children living in families, and if we are going to spend this money for a credit, let us make sure they get it.

The second chart tells you what we are talking about when we look at family earnings and how much they pay in income taxes—the actual numbers. A family making $20,000 a year is at about $458 in income tax. That would not even pay for the credit for one child. But that same family is spending over $1,500—$1,530—in payroll tax. My amendment says that the $500 per child tax credit can be used as a credit against the payroll tax, as well as an income tax, so that the family making $20,000 will get some of the benefits of this massive program that we are passing. What is wrong with saying let us make sure that the most number of children get the benefit?

I have seen some of the Republican charts that say, well, under this credit, this proposal, we get a huge credit against income tax. Sure, the problem that is most families pay more in payroll tax, and it is no offset whatsoever against the payroll tax. So for families making under $30,000 a year, for most of them it is no benefit at all.

Look at this chart. This is every State in the country. This is the median household income. In Louisiana, it is $25,000. Under the Republican proposal, if you are in a family making less than $30,000 a year, you are not going to get the benefit of a per child tax credit. So my proposition is very simple. If you want to add about 31 million more people to the rolls and give them the benefit, for the same amount of money—exactly the same amount of money—my credit goes out to families making up to $75,000 a year. It starts to phase out at $60,000 and eliminates it at $75,000 per family, but it makes it refundable against a payroll tax. By spending the same amount of money, we cover 31 million more children. I think that is what we are trying to do.

I got this wonderful note from the Christian Coalition saying they are going to target this amendment. They say, ''We are going to portray this amendment as a vote to gut the $500 per child tax credit.'' It does not gut it; it is the same amount of money. We are just covering 31 million more children in this country by making it a credit against the payroll tax. They say they want to make sure they get the most number of people covered. That is exactly what my amendment does. They say, well, his starts to phase out at $60,000 per year. That is true,

but it goes up to the same amount, $75,000, that the original Republican proposal did. Just by making it refundable against the payroll tax——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BREAUX. Forty-four percent more children are covered.

I urge adoption of this amendment.

Mr. DOMENICI. Mr. President, I yield 2½ minutes to the Senator from Minnesota.

Mr. GRAMS. Mr. President, first let me say that I agree with the Senator from Louisiana in wanting to make this tax cut refundable against the FICA or payroll tax, because I argued many months and many times that we should do this and expand the tax credit, because FICA is one of the most regressive.

But this is not the way to do it. This is not the way to pit one group of hard-working, tax-paying families against another group of families that struggle every day to try and make ends meet, to provide for his or her family.

Nearly 75 percent of the tax credits in the Republican plan go to families making under $75,000 a year, those hard-working families who have been asked to pay.

This is the real crux of the argument: They have been asked to pay more of their income to Federal taxes every year, year after year. Our plan does target low-income families with increases in the EITC credit, already giving $24 billion this year, growing to like $30 billion, and in the next year, $40 billion plus. So those families are seeing an increase in their earned-income tax credit. They are getting tax relief or more money in their pockets.

But who is forgotten? The families forgotten are those making between $30,000 and $75,000 a year. They are forgotten for the EITC program. They do not get the benefits here. Yet, they are remembered one day of the year—tax day—when they are asked to spend more and more of their money. I would like to work with the Senator from Louisiana to try and define ways to shrink the size of the Federal Government, to save additional moneys, to be able to expand even farther the tax credits, to give more persons tax relief. But let us not pit one group who are asked to pay and pay, and pay more of their income, as well as their FICA. Their FICA taxes are also being deducted.

Let us give them credits and not pit one against the other. Let us not take money from the taxpayers. Let us work to shrink the size of the Government and give more Americans more of their money back in the form of tax credits. I would like to work with the Senator from Louisiana in doing that. But I do not support this, and I urge my colleagues to vote no on the amendment.

Mr. BREAUX. Will the Senator from New Mexico yield me 60 seconds? I do not think I have any time left.

The PRESIDING OFFICER. The Senator from Louisiana has used his time. The Senator from New Mexico has 2 minutes 30 seconds.

Mr. DOMENICI. Mr. President, I rise in opposition to the amendment. First of all, everybody should know this amendment starts phasing out the child tax care credit at $60,000. The credit that we have in the Senate bill, when coupled with the earned-income tax credit, achieves the same goal as the Breaux amendment. It relieves the lower-income folks of the payroll burden. His would be to the contrary. The child credit and EIC is already in excess of the family's Federal payroll taxes. The employee and the employer share for families living at or near the poverty line. A family earning under $12,500, with two children, and families with earnings under $15,500 will have the same effect under our bill. Yet, we will be able to cover more Americans because we do not stop it at $60,000.

So I do not believe we ought to do this. Frankly, I am not a great fan of refundable anything because I believe they are rampant with fraud. We just got through a situation with EITC, and it is about 25 percent fraudulent because we are giving people a check back as a refundable tax credit. Some may be for that. I do not think it is a very good policy. The same thing will happen to this one if we do it this way.

Mr. GRAMS. If the Senator will yield, the Senator from Louisiana said more children would be covered. Actually, under his bill, because he would limit the age at 15 and not 17, as in our proposal, 5 million children between the ages of 16 and 17, whose families' income fall below $75,000 a year, would not be denied this child tax credit. It would cover fewer children and not more. So I think the whole crux of this plan is to give tax relief for families.

Mr. DOMENICI. Mr. President, in closing, I do not believe we ought to stop a child tax credit at 16 years of age. I have been through this, and that is about the time they start to get really expensive. There we are stopping it just about at that time, while in our bill we add two more years, which is much better in terms of really helping middle income families when they need it the most.

Mr. ABRAHAM. Mr. President, I will vote against the Breaux amendment. Although I have expressed support for making the $500-per-child tax credit refundable against the FICA tax, this amendment is the wrong way to achieve this objective. First, it dramatically limits the $55 credit for many middle-class families. Second, it limits the number of children who would qualify for the credit.

For families earning between $60,000 and $75,000, this amendment would unfairly prevent them from receiving the $500 child tax credit.

It is my hope that FICA refundability will be raised during conference and that a solution will be adopted which will provide much needed tax relief to all American families.

Mr. BREAUX. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I move to table that amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. I think it comes to our side. Senator BOND is next.

Mr. EXON. When Senator BOND finishes, I wish to yield the 5 minutes on our side to the discretion of the Senator from Arkansas.

AMENDMENT NO. 2975

(Purpose: To increase the health insurance deduction for self-employed individuals and to strike the long-term care insurance provisions)

Mr. BOND. Mr. President, I thank my good friend and eminent leader of the Budget Committee for this time. I send an amendment to the desk on behalf of myself and Senator PRYOR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mr. PRYOR, proposes an amendment numbered 2975.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1553, beginning with line 13, strike all through page 1588, line 24, and insert:

SUBCHAPTER A—HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

SEC. 12201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—Section 162(l) is amended—

(1) by striking ''30 percent'' in paragraph (1) and inserting ''the applicable percentage'', and

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

''(6) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

''For taxable years beginning in	The applicable percentage is:
1996 and 1997	60
1998 and thereafter	100.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BOND. There is a great injustice in our tax law, an injustice that I suspect everyone in this body has addressed at some time or another. That is the inequity in the deductibility of health insurance costs.

I do not think I need to tell my colleagues that corporations historically can deduct 100 percent of the health care insurance premium that they pay for employees, and the employees do not have to declare any of the employer-paid health insurance premiums as income. At the same time, the self-

employed farmers, the small business men and women of this country cannot deduct more than 30 percent.

This body took a great step forward earlier this year when we reinstated for last year the 25-percent deduction and increased that to 30 percent. Frankly, that is not enough.

In my role as chairman of the Small Business Committee, I have heard from small businesses in my State and across the country who are concerned, and greatly concerned, rightfully so, about health care.

The occupant of the chair and I know, because we have worked on health care issues over recent years, one of the biggest problems we face are those who are uninsured, because they are limited to a 30-percent deduction as self-employed people for health care insurance premiums.

Under the amendment that I am offering today with Senator PRYOR, we will increase the deduction for self-employed to 60 percent next year, 60 percent the following year, and then in the year 1998, increase that to 100 percent. Mr. President, I believe that is the way to achieve equity and ensure that more of the self-employed are insured.

The offset to this provision—we seek to offset by taking out the new program for long-term care insurance included in the Finance Committee markup. I think it is a good idea down the road, or perhaps even before we complete work on this bill, to start providing some incentives for long-term insurance. I think it makes a great deal of sense. I think first we have to address the basic inequity.

I reserve the remainder of my time.

Mr. PRYOR. Mr. President, I thank my colleague from Missouri for yielding to me, and I thank the distinguished manager, Senator EXON of Nebraska, for giving me the opportunity to address this issue.

We all know last spring the Congress passed and the President signed into law H.R. 831. This was a bill to restore the 25-percent health care deduction for the self-employed and for the farmers of America. As my colleagues may remember, Mr. President, this deduction had expired and the self-employed were receiving absolutely no health care deduction at all for a period of time. It was an absurd position in which to place small businesses and the family farm.

H.R. 831 also increased the deduction for 30 percent for 1995 and for all years in the future. It was a very good step, a positive step for small business and for the family farm.

I was proud, by the way, to join Senator ROTH and Senator BOND and others in a letter with 73 of our colleagues who promised not to offer or support any amendment on the floor. It was a strong statement, but we underscored our recognition of the importance of the health care deduction for the self-employed.

Last week when the tax bill came before the Senate Finance Committee, I was disappointed that the chairman's markup did not include any progress on the deduction front. I offered an amendment to increase this deduction to 50 percent—from 30 percent to 50 percent. I was further disappointed when this amendment failed on a party-line vote.

I am very proud to join with Senator BOND this evening on the floor of the Senate in an amendment to increase the self-employed deduction not to 50 percent, Mr. President, but to 100 percent. There is where it should be, and that is what our amendment does.

It is an issue of parity. It is an issue of increasing coverage for small business and for farmers, for making insurance more affordable. It would move the 30-percent rate to 60 percent in 1996 for deduction. In 1997, it would continue at 60 percent. By 1998, Mr. President, we would have a 100-percent deduction for small businesses, for the self-employed, and for the farm families of America. I think it would do more to basically make insurance more affordable and to provide insurance for many, many more millions of Americans that have labored under a very inequitable situation.

I reserve the remainder of my time.

Mr. BOND. Mr. President, I thank my distinguished colleague from Arkansas, who has been a champion of this deduction for a long time. It is a pleasure to work with him on this amendment.

I want to advise my colleagues that we have received strong letters of support from a whole host of organizations—agriculture and small business, including the Farm Bureau Federation, ABC, Chamber of Commerce, H.E.A.L., Association for Self-Employed, Association of Home Builders, Cattlemen's Association, National Restaurant Association, NFIB, National Retail Federation, Small Business Legislative Council, Society of American Florists.

I ask unanimous consent this be printed in the RECORD.

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

SUPPORT THE BOND/PRYOR AMENDMENT

OCTOBER 25, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Senate Committee on Small Business, Washington, DC.

DEAR SENATOR BOND: We, the undersigned organizations, support your and Senator Pryor's amendment to Reconciliation to increase health insurance deductibility for the self-employed.

For years, large corporations have been deducting 100 percent of the cost of their health insurance while self-employed business owners like sole proprietors, Subchapter S corporations and partnerships have been limited to 30 percent—which was just increased five percent this year. This is simply unfair and must be changed.

We believe that before the Congress authorizes a costly, new deduction for any other kind of health care benefit self-employed small business owners and farmers should get 100 percent health insurance deductibility.

Thank you for your leadership on behalf of the self-employed. We look forward to working with you to pass this important amendment. We urge all of your colleagues to support your amendment.

Sincerely,

American Farm Bureau Federation, Associated Builders and Contractors, Chamber of Commerce of the United States, H.E.A.L. (Healthcare Equity Action League),[1] National Association for the Self-Employed, National Association of Home Builders, National Cattlemen's Association, National Federation of Independent Business, National Restaurant Association, National Retail Federation, Small Business Legislative Council, Society of American Florists.

SMALL BUSINESS,
LEGISLATIVE COUNCIL,
Washington, DC, October 24, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We strongly support your amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care expenses.

As you know, sole-proprietors, partners and S Corporation shareholders can now deduct 30 percent of such costs. For many years, these individuals were not allowed to deduct health care costs at all. For a time, the deduction was 25 percent, but it was a temporary deduction and we found ourselves fighting each year to justify a provision that should not require a constant defense.

The prohibition on such deductions is an anachronism from the 1950s, based on an outdated concept of how business entities should be taxed under our system. In the modern day business environment, this policy is simply unfair. Frankly, we believe, if not for the issue of revenue, Congress would have already changed this law. It is time to address this inequity once and for all time.

The Small Business Legislative Council [SBLC] is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

GARY F. PETTY,
Chairman of the Board.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America,
Alliance for Affordable Health Care,
Alliance of Independent Store Owners and Professionals,
American Animal Hospital Association,
American Association of Equine Practitioners,
American Association of Nurserymen,
American Bus Association,
American Consulting Engineers Council,
American Council of Independent Laboratories,

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[1] The Healthcare Equity Action League (HEAL) was formed in 1991, and is the oldest and largest business community coalition supporting healthcare reform. It is comprised of over 600 companies, associations, and local Chambers of Commerce, representing over 1 million employers and 35 million employees.

American Gear Manufacturers Association,
American Machine Tool Distributors Association,
American Road, Transportation Builders Association,
American Society of Interior Designers,
American Society of Travel Agents, Inc.,
American Subcontractors Association,
American Textile Machinery Association,
American Trucking Associations Inc.,
American Warehouse Association,
AMT—The Association of Manufacturing Technology,
Architectural Precast Association,
Associated Builders & Contractors,
Associated Equipment Distributors,
Associated Landscape Contractors of America,
Association of Small Business Development Centers,
Automotive Service Association,
Automotive Recyclers Association,
Automotive Warehouse Distributors Association,
Bowling Proprietors Association of America,
Building Service Contractors Association International,
Christian Booksellers Association,
Cincinnati Sign Supplies/Lamb and Co.,
Council of Fleet Specialists,
Council of Growing Companies,
Direct Selling Association,
Electronics Representatives Association,
Florists' Transworld Delivery Association,
Health Industry Representatives Association,
Helicopter Association International,
Independent Bankers Association of America,
Independent Medical Distributors Association,
International Association of Refrigerated Warehouses,
International Communications Industries Association,
International Formalwear Association,
International Television Association,
Machinery Dealers National Association,
Manufacturers Agents National Association,
Manufacturers Representatives of America, Inc.,
Mechanical Contractors Association of America, Inc.,
National Association for the Self-Employed,
National Association of catalog Showroom Merchandisers,
National Association of Home Builders,
National Association of Investment Companies,
National Association of Plumbing-Heating-Cooling Contractors,
National Association of Private Enterprise,
National Association of Realtors,
National Association of Retail Druggist,
National Association of RV Parks and Campgrounds,
National Association of Small Business Investment Companies,
National Association of the Remodeling Industry,
National Chimney Sweep Guild,
National Electrical Contractors Association,
National Electrical Manufacturers Representatives Association,
National Food Brokers Association,
National Independent Flag Dealers Association,
National Knitwear & Sportswear Association,
National Lumber & Building Material Dealers Association,
National Moving and Storage Association,
National Ornamental & Miscellaneous Metals Association,
National Paperbox Association,
National Shoe Retailers Association,
National Society of Public Accountants,
National Tire Dealers & Retreaders Association,
National Tooling and Machining Association,
National Tour Association,
National Wood Flooring Association,
NATSO. Inc.,
Opticians Association of America,
Organization for the Protection and Advancement of Small Telephone Companies,
Petroleum Marketers Association of America,
Power Transmission Representatives Association,
Printing Industries of America, Inc.,
Professional Lawn Care Association of America,
Promotional Products Association International,
Retail Bakers of America,
Small Business Council of America, Inc.,
Small Business Exporters Association,
SMC/Pennsylvania Small Business,
Society of America Florists,
Turfgrass Producers International.

NATIONAL ASSOCIATION
FOR THE SELF-EMPLOYED,
Washington, DC, October 25, 1995.

Hon. KIT BOND,
Chairman, Senate Small Business Committee, Washington, DC.

DEAR CHAIRMAN BOND: It is my understanding that you intend to offer an amendment during the budget debate that would raise the health insurance deduction for the self-employed from the current 30 percent level to 100 percent. On behalf of the National Association for the Self-Employed, I completely support your efforts.

Raising this deduction level would create tax equity between corporate America and small business. Currently, large businesses can deduct 100 percent of the premiums they pay on behalf of their employees for health insurance coverage. The self-employed can only deduct 30 percent of their costs. And the self-employed who pay for their own insurance are primarily paying with after-tax dollars, effectively making the policies more expensive. A 100-percent deduction would give the self-employed the equity they deserve.

Also a 100-percent deduction would enable many self-employed to purchase a health insurance policy, a luxury many cannot currently afford. I believe passing a 100-percent deduction would significantly decrease the number of uninsured individuals in this country.

We have polled our 320,000 self-employed members and 100-percent deductibility of health insurance premiums is the No. 1 issue of concern to them. Please do not hesitate to call on me. I stand ready to assist your efforts in any way I can.

Sincerely,

BENNIE L. THAYER,
President/CEO.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Small Business Committee, U.S. Senate, Washington, DC.

DEAR KIT: The U.S. chamber of Commerce Federation of 215,000 businesses (96% of whom are small businesses), 3,000 state and local chambers of commerce, 1,200 trade and professional organizations, and 75 American chambers of commerce abroad strongly supports your small business amendment to the Balanced Budget Reconciliation bill. Your amendment would allow the self-employed and small businesses to deduct 100% of their health insurance costs, a benefit currently available only to large corporations.

As you know, the Chamber has long maintained that the self-employed and unincorporated small businesses should receive the same tax treatment currently available to corporations. Sound tax policy dictates full deductibility of premium of self-insurance cost as ordinary and necessary business expenses. There is no valid tax policy reason for treating the smallest businesses any differently. It is vitally important to the nation's economic security that the smallest businesses, frequently new and often struggling, should be granted a measure of security equal to that of larger corporations.

Once again, the Chamber commends your work on behalf of our nation's small businesses and looks forward to working with you towards resolving this issue. The inability of the nation's smallest businesses to deduct the full cost of their health insurance, and the inequity in being denied an advantage granted to their incorporated fellows, has been a thorn in the side of small business and the self-employed for years. It is time that thorn is removed and equality is restored.

Sincerely,

R. BRUCE JOSTEN.

PROMOTIONAL PRODUCTS
ASSOCIATION INTERNATIONAL,
Irving, TX, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Promotional Products Association International (PPA), I wish to express our support for your amendment to increase the deduction the self-employed may take for their own health care costs.

Under current law, they may deduct only 30 percent of their health care costs, and the current deduction was only recently made permanent. For the millions of sole proprietors, partners, and S Corporation shareholders, including PPA members, this is an unfair penalty with no sound basis in tax policy.

The current policy dates back to another era in tax policy, when business entities such as sole proprietorships were viewed upon with great suspicion. Now, decades later, economic and social policy has evolved to the point where we find more and more individuals opting to structure their small business in such a fashion. These small businesses are an increasingly important source of strength in our economy.

It is time to give them the same opportunity to deduct their health care costs as any other business.

The promotional products industry is the advertising, sales promotion, and motivational medium employing useful articles of merchandise imprinted with an advertiser's name, logo, or message. Our industry sales are over $6 billion and PPA members are manufacturers and distributors of such goods and services.

Sincerely,

H. TED OLSON, MAS,
President.

NATIONAL HOME
FURNISHINGS ASSOCIATION,
Washington, DC, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the National Home Furnishings Association [NHFA], I wish to express our strong support for your amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care costs. It is long overdue.

It is unfair to penalize small business owners solely because they elect to do business as a sole proprietorship, partnership, or S Corporation, yet that is what the current tax code does with respect to their own health care costs.

As you know, for the first time this year, the self-employed can deduct 30 percent of their health care costs. For many years, they were not allowed to deduct even that much. We all know what health care costs these days, and it is simply unfair to impose such a harsh penalty which does not have any sound tax policy justification to support it.

The NHFA represents approximately 2,800 retailers of home furnishings throughout the United States. Thank you for your efforts on our behalf.

Sincerely,

PATRICIA N. BOWLING,
Executive Vice President.

WORLD FLOOR
COVERING ASSOCIATION,
Washington, DC, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the World Floor Covering Association [WFCA], representing floorcovering retailers throughout the United States, I wish to express our strong support for our amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care costs. It is about time this inequity in our tax policy was resolved once and for all.

Mr. BOND. Now, Mr. President, I know there are a number of my colleagues who feel very strongly about the long-term care insurance program. We have had discussions about finding other offsets to this amendment so that we may be able to start on that long-term care prospect. I will be most anxious to work with my colleagues because I think everybody here at one time or another has expressed his or her strong support for the full deductibility of health care.

With that, I ask unanimous consent that I be permitted to modify the amendment prior to a vote on it.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, I do not understand what that means.

Mr. BOND. Mr. President, if I could respond.

Mr. DOMENICI. You mean, if you find another source of revenue?

Mr. BOND. There are minds far brighter than mine and people with far greater access to the intricacies of this measure who are embarking on a good-faith effort to find offsets to get them scored by the Joint Tax Committee.

I sincerely hope we can find a way to accommodate both the long-term insurance and the health care. I believe very strongly that the health care deductibility for self-employed must be done. I would like to be able to work with my colleagues who support the long-term insurance program so that can be accomplished.

At this point we do not have an offset. I want to make sure this measure is before us.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Senator DOLE wants to be recognized in opposition.

Mr. DOLE. Only in opposition to the long-term care.

I think in this matter, a lot of the debate in the last 2 or 3 days has been long-term care—Medicare, Medicaid. We are trying to get the younger people involved in long-term care so that when they arrive at their senior years, they will have long-term care through the private sector.

It is something we have worked on in a bipartisan way in the Finance Committee for years. We finally have it in the bill. We believe it is a very good provision.

I do not object to the amendment that is pending. I hope they can find another revenue source. I support what Senator BOND and Senator PRYOR are trying to do. The self-employed should have the same rights as everyone else, the same deduction. I hope that if we can find another revenue source—because I really believe the long-term care amendment, although this is very important, is just as important, or we will be back here in 10, 15, 20 years, somebody will be back here wondering why we did not do something to get people interested in buying insurance and getting a deduction.

I hope we can resolve it before we have the vote.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, we said we had no objection.

The PRESIDING OFFICER. The request is agreed to.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we were entitled to 5 minutes in opposition, because the other side was in favor. But I am just going to take a minute and say I compliment Senator BOND for what he is trying to do. But I, too, hope he will find another offset, because I truly believe, in the midst of a national debate on Medicare and Medicaid, much of which is long-term care, we have come to the conclusion that the missing link out there is that not many people have long-term care protection.

That is getting to be a bigger and bigger burden of our Government. We are going to be less and less able to do it. That we start, in this bill, moving in the direction of letting that happen for people who want to save for themselves and buy insurance and get an appropriate credit, seems to me to be very positive. I hope the Senator from Missouri, for whom I have great respect, would agree with that.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I cannot disagree with a thing my distinguished colleague from New Mexico has said. I had the pleasure of meeting with business men and women in his State. Both of these are important in his State, my State, and the rest of the country.

I do want to make sure this bill has the deductibility phased in, full deductibility for the self-employed and small businesses. We are most anxious to work cooperatively with colleagues on both sides to accomplish this.

Mr. DOMENICI. I yield back any time I had in opposition.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas has 2 minutes and 9 seconds.

Mr. PRYOR. Will Senator EXON like some time?

Mr. EXON. I will wait until the Senator finishes.

Mr. PRYOR. Mr. President, just for 1 minute. On many occasions we, all of us, I assume, have gone to town meetings or wherever and said we believe the self-employed, small business, farmers of our country need to have the same rights and same deductibility, especially in purchasing their health care coverage for themselves and their employees. This is exactly what Senator BOND and I are trying to craft tonight, that opportunity. I hope we can give that to these individuals who truly create the jobs in America and who really are deserving of this opportunity to participate in the health care system of America.

I hope we can work out something and I pledge my best efforts to do so.

Mr. EXON. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 1 minute and 15 seconds.

Mr. EXON. I would like to use that 1 minute, if I might, for a brief colloquy between myself and the chairman of the committee. I think we can jointly announce some good news. I think we are moving quite well here. The amendments I have next, that I think are agreed to on the other side—next will be Senator BIDEN, then Senator SNOWE, then Senator DORGAN, then Senator PHIL GRAMM of Texas, and then Senator KERRY of Massachusetts.

I am pleased with the way we are cooperating on both sides and the fact the Senators are here, prepared to offer their amendments in a timely fashion.

Is that the schedule for the next amendments, in that order?

Mr. DOMENICI. Yes. I would make sure and confirm on our side that, when we have done Senator GRAMM of Texas, it is my calculation that we will have had 8 of our 10, still leaving us with 2. If that is everybody's understanding, then I am perfectly in accord.

Mr. EXON. It appears to me that is accurate.

Mr. WELLSTONE. Will the Senator yield for just a moment? I did not hear the Senator from Nebraska. What was the order of the next 50 minutes, did he say?

Mr. EXON. The next amendments, 10 minutes each, equally divided. The next will be Senator BIDEN followed by Senator SNOWE followed by Senator DORGAN followed by Senator PHIL

Gramm of Texas followed by Senator KERRY of Massachusetts.

With that, I yield 5 minutes to Senator BIDEN, from the State of Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

MOTION TO COMMIT

Mr. BIDEN. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes a motion to commit with instructions.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions that the Committee on Finance report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) with identical language, except that the Committee on Finance shall include a provision in the bill which would provide tax relief to middle-class American families and which would help middle-class families meet the rapidly rising costs of a higher education by providing a tax deduction of up to $10,000 per year for the costs of a college education for individual taxpayers with adjusted gross income of not more than $90,000 and for married couples with adjusted gross incomes of not more than $120,000. The Committee on Finance should also include a provision which offsets the costs of this proposed tax deduction by restricting the growth of tax expenditures, except for the deductions for mortgage interest, health insurance, state and local taxes, and charitable contributions.

Mr. BIDEN. Mr. President, this goal is straightforward. It is simple and I think consistent with what I heard everyone over the last 2 years talk about. We all stand before this body, in both parties—I do not question the motivation of anyone in either party—and we always talk about the need to give immediate relief to middle-class taxpayers. Admittedly, in this bill there is some relief for middle-class taxpayers in the tax portion, and that is the $500 child care tax credit. I would argue—I will not take the time now—the additional cost to middle-class families as a consequence of the cuts in Medicare and Medicaid will offset that, but that is a different question.

One of the things we also talk about is the goal and dream of every American family, whether it is the richest businessman or poorest welfare mother, and every middle-class family, and that is providing for the education for their children.

Frankly, as the Presiding Officer knows, it is getting harder and harder for middle-class families—and I mean that in a broad range, people making from $30,000 to $90,000 individually or up to $120,000 as a family—to be able to afford a college education. I would like to take a look at what is happening here, very quickly, in the limited amount of time that I have. This is what has happened since 1980.

The orange represents the cost of public college tuition. I want to make sure we understand now I am talking about State universities. I am not talking about private universities, whether the Syracuses or the Harvards or the Yales or the Georgetowns of the world, which are a great deal more expensive than the cost of public tuition and fees. And I am not even talking about room and board. I am not even talking about that—just college tuition and fees. Since the 1980's the college tuition and fees for public universities have increased 236 percent. The median household income in America has gone up 82 percent.

If you go back to 1980 you can see how every single, solitary year the gap is widening, in what I do not know anyone would disagree with is the ultimate middle-class dream most American families have, like the one my father had, he never went to college: give my son and my daughter a college education.

When I went to school, this gap was not so wide. If you take a look at what has happened in terms of, again, income for median families, middle-income families, in 1980, 4.5 percent of median household income was what it cost to send someone to college. Now that is almost doubled, it is 8.4 percent. That is for one child.

The bottomline is it is getting incredibly difficult for middle-class families, or any family to send their child to college. So the result is, in 1980, as I said, it took 4.5 percent of the median household income to pay for tuition and fees. I am not talking, now, about room and board. Today it takes 8.4 percent, almost double, just for tuition and fees for a public university.

Education is one of the best investments we can make in American society. I have voted for investment tax credit for businesses. I voted for tax credits for them buying machinery and all of those things which make sense in my view.

I can think of nothing that makes more sense than encouraging American families to invest in a post-high school education for their children. It seems to me it is about time they should get a break.

Mr. President, to reiterate, this motion to recommit is simple. It instructs the Finance Committee to include in the budget reconciliation bill a tax deduction of up to $10,000 for the costs of a college education.

Let me tell you why this is important. In my years of public service, I have found that no matter what differences may divide us, there is always one constant thing that unites us. We all have the same dream.

Think about it. No matter who you talk to—black or white, rich or poor—every American family dreams that their children will go to college. It was my dad's dream for his children, and it was, and is, my dream for my children. It remains the dream of every middle-class American family.

But, that dream is now at risk. This last summer, a poll was conducted of undergraduate students and parents with children in college. Of those surveyed, 87 percent—nearly 9 out of every 10 Americans—believe that the cost of college is rising so fast that it will soon be out of reach for most Americans.

It should be no surprise why the overwhelming majority of Americans believe that. At the rate we are going, it is true. It is getting harder and harder for middle-class Americans to afford a college education.

It makes you begin to wonder what exactly the word public means when you say ''public higher education.''

A college education is slipping out of reach of middle-class Americans. And, if they still want to fulfill the dream, it means that more and more young people must borrow more and more money to go to college.

One more statistic—and perhaps the one that boggles my mind the most. Of all the money ever borrowed under the Federal Government's guaranteed student loan program, 22 percent of it has been borrowed in the last 2 years.

Let me say that again. The guaranteed student loan program has been with us for 30 years. And, of all the money borrowed during that time, almost one-fourth of it has been borrowed in just the last 2 years.

We are saddling the next generation with enormous debt before their adult lives even begin. And, I am not talking about the abstract terms of the Federal debt. No, this is saddling the next generation with individual, personal debt.

When today's college students walk down the aisle at graduation, they are handed not only a diploma, but a big i-o-u. And, for too many, it is either that, or no college at all.

So, I have a very simple proposition. We should give a tax deduction of up to $10,000 per year for the costs of a college education. Under my motion to recommit, this tax deduction would be limited to single taxpayers with incomes under $90,000 and to married couples with incomes under $120,000. And, it would be paid for by limiting the growth—not cutting, just limiting the growth—in tax expenditures.

Mr. President, education is one of the best investments we as a society can make. It is one of the best measurements of future economic well-being. And, it is more important now than ever before. Previous generations could make a solid middle-class living with only a high school education. No more.

In fact, there was an interesting point made in a Wall Street Journal article last week. Working families save primarily by investing in human capital—that is, education.

Yet, when businesses invest in machine capital, they are not taxed. Middle-class families, when they invest in

education, are taxed to the hilt. Education is treated as consumption, not investment.

And, as a Nobel Prize economist once put it, the tax code treats machines better than it does people.

It is time for that to change.

From the establishment of the land-grant university system in the late 1800's to the GI bill at the end of World War II to the creation of the PELL Grant and Guaranteed Student Loan programs in the 1960s, the Federal Government has been committed to seeing that young people desiring to go to college would not be turned away because of the cost. It was a national goal to see a college education within reach of every American.

Now, as that goal begins to slip out of reach for many middle-class families, it is time to renew our commitment to ensuring access to a college education for all Americans. I urge my colleagues to support this proposal.

I reserve the remainder of my time if I have any.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I regrettably disagree with my friend from Delaware. Actually, to pick out two of the many tax expenditures, that is, two mortgage deductions—that is a very large one—and health insurance and freeze all the rest seems to me totally unreasonable. Let me just go through a couple.

We are freezing pension contributions. That is one of the largest tax expenditures we have, and we think it is fair. Education that employees get from their corporations, you would freeze that deduction. The R&D tax credits for American corporations. The one thing they have asked for is that they get to deduct in a special way the research and development costs of their business, something needed to keep them competitive. Arbitrarily we decide those are all frozen so that we can provide this special tax treatment for those people with children going to college.

Now, we would like to do that. We would like to do a lot of things, but, frankly, to take the tax code and say all these other provisions that are good for our country, we just decide to freeze them so we can do that, in light of the fact that we have provided significant assistance to middle-income Americans—in this bill, there is a credit for student loan interest, a credit for 20 percent of the interest paid on the student loan during the taxable year if the taxpayer has an adjusted gross income of $40,000 to $50,000 as a single taxpayer, $60,000 to $75,000 as a couple—it is capped at $500 per year per borrower, $1,000 per return—that is pretty fair. With all the other things we are trying to do, it seems to me we ought to in a more orderly way look at such things as the pension deductions and the expenditures for education that employers give to employees, and many other good tax expenditures that are out there right now working for Americans.

So at the right time, I will move to table the amendment, but for now I yield back the remainder of my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 53 seconds.

Mr. BIDEN. Mr. President, I know my friend has put a whole flock of kids through college, and so I know his commitment to college.

Let me just say very briefly my amendment restricts the growth of tax expenditures in those areas. It does not in fact freeze them.

No. 2, tell middle-class taxpayers that R&D is more important for corporations, which I support, than freezing—even if you were to freeze—than it is to be able to send their kid to college. Ask the average middle-class American taxpayer what is a better investment. Who is going to do the R&D if we do not get these kids to college?

Lastly, I say to my friend, the $500 cap on student loan interest is worthwhile and is necessary but it does not compare to $10,000 that a middle-class family would be able to deduct. They need help now. They need help now, Mr. President, and this is the most direct and immediate way to do it.

I thank the Chair. I thank my colleagues.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I think it returns to our side and Senator SNOWE has an amendment at this time.

The PRESIDING OFFICER. The Senator from Maine.

Mr. EXON. Before Senator SNOWE is recognized, to expedite things, when Senator SNOWE finishes, I yield half of our 5 minutes to the Senator from West Virginia, who I understand also supports it.

I reserve the other half of the time in case any opposition surfaces.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 2976

(Purpose: To express the sense of the Senate regarding the coverage of treatment for breast and prostate cancer under Medicare)

Ms. SNOWE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself, Mr. D'AMATO, Mr. SHELBY, Mr. BIDEN, Mr. MACK, Mrs. HUTCHISON, and Mr. GRAMM, proposes an amendment numbered 2976.

Ms. SNOWE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 606, between lines 13 and 14, insert the following:

SEC. 7058. SENSE OF SENATE REGARDING COVERAGE FOR TREATMENT OF BREAST AND PROSTATE CANCER UNDER MEDICARE.

(a) FINDINGS.—The Senate finds that—

(1) breast and prostate cancer each strike about 200,000 persons annually, and each claims the lives of over 40,000 annually;

(2) medicare covers treatments of breast and prostate cancer including surgery, chemotherapy, and radiation therapy;

(3) the Omnibus Budget Reconciliation Act of 1993 (OBRA) expanded medicare to cover self-administered chemotherapeutic oral-cancer drugs which have the same active ingredients as drugs previously available in injectable or intravenous form;

(4) half of all women with breast cancer, and thousands of men with prostate cancer which has spread beyond the prostate, need hormonal therapy administered through oral cancer drugs which have never been available in injectable or intravenous form; and

(5) medicare's failure to cover oral cancer drugs for hormonal therapy makes the covered treatments less effective.

(b) SENSE OF SENATE.—It is the sense of the Senate that medicare should not discriminate among breast and prostate cancer victims by providing drug treatment coverage for some but not all such cancers, and that the budget reconciliation conferees should amend medicare to provide coverage for these important cancer drug treatments.

Ms. SNOWE. I thank the Chair.

I am offering this amendment in conjunction with Senators D'AMATO, SHELBY, BIDEN, MACK, HUTCHISON, and GRAMM that expresses the sense-of-the-Senate that the budget reconciliation conferees should amend Medicare to provide coverage for certain oral cancer drugs that are of enormous benefit to breast and prostate cancer victims. Currently, Medicare discriminates among breast and prostate cancer victims by providing certain drug treatment coverage for some but not all such cancers.

Back in 1993, when Congress expanded Medicare to help pay for the diagnosis and treatment of breast cancer, gaps in coverage were inadvertently created which denied coverage for certain oral cancer drugs. This is because in 1993, the Medicare OBRA provisions allowed the coverage of oral cancer drugs that were previously available in injectable or intravenous form.

However, half of all women with breast cancer, that is, 50 percent, and thousands of men with prostate cancer which has spread beyond the prostate, need hormonal therapy that is administered through oral cancer drugs that have never been available in injectable or intravenous form.

Let us consider the potential benefit of covering these oral estrogen-based cancer drugs for elderly populations.

Breast cancer and prostate cancers are very similar. First, both diseases strike approximately 200,000 Americans per year.

Second, both diseases take over 40,000 lives each year. While breast cancer affects 1 in 9 women, prostate cancer affects 1 in 11 men every year, and for both diseases the number of reported cases is rising rapidly. In fact, the number of reported cases of prostate

cancer is increasing to an alarming degree, an expected 90 percent increase between 1983 and the year 2000.

Finally, these diseases are prevalent among women and men whose age makes them eligible for Medicare.

The Congressional Budget Office's preliminary analysis revealed the coverage of the breast cancer portion of this amendment at a savings of $156 million over 7 years.

So I am asking, Mr. President, that we support this resolution because I think it is the next logical step in fighting both breast cancer and prostate cancer. It does not make sense that we do not provide coverage for the next generation of drug treatment for both prostate and breast cancer treatment. It will save money in the long run under Medicare, and it certainly will make it easier to be administered to those patients, especially those who live in rural areas because it is an oral type of drug rather than having to be administered in outpatient or in inpatient facilities.

In 1991, Congress made a significant investment under the Medicare provisions for breast cancer screening. It only makes sense then to provide this kind of extensive coverage with the new kinds of drugs that are coming on the market that will be reimbursed under the Medicare system. By denying coverage for treatment to half the population of breast cancer patients, we are not taking full advantage of the investment that Congress has already made.

In 1994 alone, Medicare will have spent an estimated $640 million on breast cancer treatment. Yet, here we find that Medicare will not cover some of the treatments that could be provided for women because they do not reimburse an oral form of drug. In this case, for example, it is tamoxifen. Tamoxifen is a new drug on the market for the treatment of breast cancers at certain stages and yet because it was not available in intravenous or injectable form it cannot be reimbursed under the Medicare system because it is an oral drug. I do not think it makes sense. It certainly does not make sense for the future. It does not make sense for the lives and the health of the individuals who are victims of breast or prostate cancer.

So I would urge that the Senate go on record in preventing the recurrence of breast and prostate cancer by advocating that Medicare reimburse for such coverage.

Mr. President, I would ask for the yeas and nays, and I reserve the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. SNOWE. Mr. President, I ask unanimous consent to include Senator COHEN, of Maine, as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has 2½ minutes.

Mr. ROCKEFELLER. I yield 10 seconds to the Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the Senator. I wish to thank my colleague from Maine. As an original cosponsor of her amendment, I would like to point out two things very quickly.

One, this was an oversight in the first place. It was never intended that this drug should not be covered. And No. 2, it is vitally important to the health and safety of millions of Americans. I think it is a good amendment, and I am glad she is introducing it.

Mr. ROCKEFELLER. Mr. President, let me put this in two forms. One is, I think this amendment has a virtuous purpose, and I will support it. It is a wish. It is just simply a wish. That is why it is put in the form of a sense of the Senate. We are hoping that the reconciliation conferees will approve Medicare. I support it. In fact, I worked on matters of this oral use of cancer pills and other things in the past.

But I would be very surprised, quite frankly, if we can in Medicare buy a single new aspirin, much less prostate cancer and breast cancer remedies, under the $270 billion cut which the underlying bill of the majority contemplates, let alone any more coverage whatsoever for cancer. And I think that Senator SNOWE understands that, making this, therefore, a sense of the Senate.

Keep in mind, please, my colleagues, that we are cutting $270 billion. We were devastating everything from graduate medical education to rural hospitals, to premiums, to original research in any area. You are going to find a lot of people—in fact, I notice our colleague from Massachusetts coming in—you will find a lot of people not going into research medicine to come up with new cures for prostate cancer or breast cancer because of what is happening to graduate medical institutions.

But all we had to do to get this amendment and to be able to pass this amendment was, in fact, to do what the Democrats wanted to do, which was simply cut $89 billion from Medicare. But, no, they wanted to cut $270 billion in order to be able to——

The PRESIDING OFFICER (Mr. KYL). The Senator has used his 2½ minutes.

The Senator from Nebraska controls the time.

Mr. EXON. I will be glad to yield—has the Senator finished? Does the Senator need more time?

Mr. ROCKEFELLER. One minute.

Mr. EXON. I yield 1 minute to the Senator from West Virginia.

Mr. ROCKEFELLER. Medicare, let us face it, has been put on the chopping block. These are huge, huge cuts that are going to be made in the next 7 years that our people have absolutely no concept of. And here we are talking about adding on services. I am for that. I am for Senator SNOWE. She is an excellent Senator, and her sense-of-the-Senate resolution is excellent and it should be supported.

But the division on the one hand of the virtue of that purpose and the utter devastation of Medicare is a very awkward coupling, to say the very least. I hope and pray Medicare can do more for breast cancer, for prostate cancer, but I will guarantee you it cannot so long as we are cutting $270 billion out of it.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, since no others are seeking time, I will be glad to yield back our time.

Is there any time on this side?

Ms. SNOWE. Mr. President, I ask unanimous consent to include Senator JEFFORDS as a cosponsor of this amendment, and I will yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Has all time been yielded back on both sides?

The PRESIDING OFFICER. Not all time has been yielded back yet.

Mr. EXON. May I request all time be yielded back? I yield back our time.

Mr. DOMENICI. Does the Senator yield back all his?

The PRESIDING OFFICER. The Senator from Maine yields back. All time is yielded back.

Mr. EXON. I believe the next order of business would be an amendment offered by Senator DORGAN of North Dakota.

I yield 5 minutes to him at this time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 2977

(Purpose: To end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States)

Mr. DORGAN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. KENNEDY, Mr. REID, Mr. FEINGOLD and Mr. BUMPERS, proposes an amendment numbered 2977.

Mr. DORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 1 of subtitle I of title XII, insert the following new section:

SEC. 2. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5)).''

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

''(h) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property,

''(B) the sale, exchange, or other disposition of imported property, or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States, or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

''(B) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h)).''

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) is amended by striking ''or (E)'' and inserting ''(E), or (H)''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) (and by redesignating the following subclauses accordingly):

''(III) imported property income,''.

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1995, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (C).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1995.

Mr. DORGAN. This is a very important amendment. It is one that actually has previously been passed by the House of Representatives a few years ago. My amendment simply ends something called ''deferral'' for someone who closes their plant in the United States, moves it to a tax haven country, makes the same product and ships it back to the United States. This is about moving jobs overseas.

We have had a circumstance in this country for some while where we say to somebody, ''If you close your manufacturing plant in America, move the jobs overseas, make the same product, ship it back to the United States, we will give you a tax break. Stay here and you pay income taxes. Move your jobs overseas and do your manufacturing overseas, we will give you a tax break.''

We have lost 3 million manufacturing jobs during the same time that Singapore has experienced a 46-percent increase in manufacturing jobs. That is not a coincidence. We give a tax break for people to ship their jobs overseas.

Let me give you an example of that. Here is a company that I will not identify. I will just tell you it makes pants, a pants company. This company had 280 of its employees apply for trade adjustment assistance a few months ago.

What does that mean? It means they lost their jobs because of overseas competition. The same company, whose employees now have lost their jobs here in this country, same company, describes with its filings what it does, performs most of its sewing and finishing now offshore in order to keep production costs low. It means they have moved their jobs out of this country.

Then it says in its financial reports, this same company has undistributed retained earnings of $21 million, November 1994. No tax has been paid on them because the management intends to indefinitely reinvest them in foreign countries.

What does this mean? It means they get a tax break. They would have paid $7 million in taxes had they stayed in this country and manufactured. But, no, we say to them, ''If you move your operation outside of this country, move your American jobs elsewhere, give the jobs to foreigners, shut your plant down here and move your jobs overseas, we'll give you a tax break.''

My legislation is very simple. It says, end the tax break for people who want to move their jobs overseas. End the tax break. It does not make any sense. No one, in my judgment, can honestly defend this kind of practice.

Use the money that we develop as a result of this amendment to reduce the Federal debt. That is what this amendment is about.

This amendment I offer on behalf of myself and Senators KENNEDY, REID, FEINGOLD, and BUMPERS.

I have heard a lot of debate about a lot of financial issues, but I never heard anyone in this country who can defend a part of the Tax Code that says, ''We will be willing to provide a tax break if you will only close your doors to your manufacturing plant in the U.S.A. and ship the jobs to some foreign land.''

If we cannot end this sort of thing, how can we talk to the American people about good jobs? Sixty percent of the families in this country now have less income than they did 20 years ago. Why? Because good jobs are moving overseas. There are a lot of reasons for that, but at least one of those reasons is we have an insidious, perverse incentive in our Tax Code to reward those with a tax break who would move their jobs overseas.

This amendment very simply says, ''Let's at least stop that. Let's decide jobs in this country are important. We want to retain good jobs, good-paying jobs, manufacturing jobs. Let's stop the flight of American jobs out of America.'' And one way to do that, among many others, is to decide to straighten out the Tax Code.

The fact is, President Clinton during the last campaign talked about this issue. We have had people on all sides of the political aisle talk about it. I was helpful in getting this passed through the House of Representatives in 1987, I believe it was. It subsequently was dropped. It was subsequently dropped in conference. This bill had extensive hearings. I held a hearing on this bill in the U.S. Senate. So this bill meets the criteria. We understand what this is about. This amendment makes sense. I hope that this amendment will have the support of Members of the

Senate. This makes good sense for our country.

Mr. President, with that I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I yield such time as he may need to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I rise in opposition to the amendment proposed by Senator DORGAN. In doing so, let me say at the beginning, I am not happy with companies that move abroad to a tax haven or cheap labor for the purpose of manufacturing products that are sold back to the United States. None of us can be happy with the export of American jobs.

At the same time it is important to understand that we are in the global economy and that if we are to provide well-paying, good jobs for our people, it is important that we become a vital force in the global economy that is now emerging. The United States must become competitive in this global economy.

My concern with the Dorgan amendment is that in hearings held before the Finance Committee in the past, Treasury has testified that this kind of legislation is very difficult to administer.

It has been pointed out, for example, what do you do in the case of a plant that sells both to the United States and to other companies abroad? Obviously, we want to encourage American business to compete in foreign markets, but would that company be entitled to the deferral, or how would you administer it?

Let me say that it is my intent, upon the completion of reconciliation, to look at a number of these important and complex international trade questions. We have purposely avoided in this reconciliation containing any amendments or provisions dealing with foreign trade or international matters. And as I have indicated, one of our reasons for taking this approach is that this is a matter of extreme complexity, of greatest importance to our economy and the creation of jobs in America. For that reason, we have not, as I said, included any provisions involving international trade matters in this legislation. For that reason, the Dorgan amendment is not appropriate as part of this legislation.

Again, let me say that it is my intent as chairman of the Finance Committee, which has jurisdiction over trade, that we will be holding a series of hearings dealing with the kind of problems that are raised by this amendment. But until we have a better idea of how to address this problem so that we do not, in the process of trying to correct one problem of people fleeing abroad to tax havens that sell back here, that we do not hurt those who are going abroad for a legitimate purpose, to become competitive in international markets.

So, for these reasons, I must respectfully disagree with this amendment. I yield back any remaining time.

The PRESIDING OFFICER. The Senator from North Dakota has 30 seconds remaining.

Mr. DORGAN. Mr. President, we do not need to study this; we need to stop it. Anybody who thinks that a tax break for moving American jobs overseas is good for this country probably thinks Elvis is living in a trailer park in St. Louis.

Nobody I know believes it is good tax policy to spend $2.2 billion in the next 7 years encouraging companies to shut their doors here and move their jobs overseas. What kind of nonsense is this? If we cannot support an amendment like this, we ought to turn off the lights and lock the door in this place.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Michigan has 20 seconds remaining.

Mr. ABRAHAM. We yield back the remaining time.

The PRESIDING OFFICER. Time is yielded back.

Mr. DORGAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. At this time, I believe the next item in order will be the amendment of the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 2978

(Purpose: To provide States additional flexibility in providing for Medicaid beneficiaries)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2978.

On page 767, strike all after ''(2)'' on line 6 through ''(4)'' on line 16.

Mr. EXON. Mr. President, will the Senator from Texas yield for one moment? After the Senator has made his presentation, I yield 5 minutes to Senator ROCKEFELLER in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, the whole logic of block granting Medicaid so that States could run the Medicaid Program with less money than if we had kept it as an entitlement is a belief that States can run the program better. In fact, both Democratic and Republican Governors have come to the national capital and said to us: ''If you will let us run Medicaid, we will provide better health care and we will do it cheaper and we will share the savings with you.''

On a bipartisan basis, they have supported our efforts to block grant Medicaid to the States, the logic being that States are capable of making decisions about running Medicaid, the logic being that the Governor and the legislature of the various States love people who receive benefits from Medicaid in their State at least as much as we do. They know those people more intimately than we do, and, obviously, those people are capable of putting them out of office directly, whereas they may not be able to vote against a Senator from another State.

In the markup in the Finance Committee before I became a member, an amendment was added that created a new entitlement. This is an entitlement imposed upon the States. The entitlement basically says that while we are giving States the ability to run Medicaid, that we are going to intervene at the Federal level and mandate that no matter how they structure their programs they have to provide three entitlements. Specifically they are told by us that there are three groups of people that they must cover.

There are groups that we would not want to cover; there are groups that the States would cover. But every Governor I know is outraged about this provision that mandates a State-mandated program for pregnant women, for children under the age of 12, and for disabled individuals.

The point is this: Not that anyone wants to deny service to pregnant women or children under 12 or disabled people, but who are we in Washington to decide how the States are going to run this program? Is it not the ultimate arrogance for Washington to believe that only we care about pregnant women, that only we care about children under 12, that only we care about the disabled, and if we let the uncaring Governors, if we let the uncaring legislators run their program in their State, they are not going to take care of their own people?

I totally and absolutely reject this. This amendment flies in the face of everything we are trying to do in Medicare, everything that my party stands for, and I think this Big Brother Washington approach has to end.

I do not believe we are going to strip this rotten amendment out of this bill, but I want to have a vote on it. The whole logic of the Medicaid reform is we are going to let the local leaders who know their people best and who care the most make the decisions. The idea that we are creating a new entitlement and we are imposing it on the States, and now in a new provision we are going to, in essence, let people go into Federal court and sue the States on these issues, I think that clearly is a retreat from what we promised the States when we gave them less money to let them run the program, and I reserve whatever seconds may remain on my time.

Mr. ROCKEFELLER. Mr. President, this amendment should absolutely be

defeated on both sides. It has this wonderful kind of a kind-hearted title to it. It talks about ''flexibility.'' The purpose is, of course, to get rid of all of this. If the Senator wants to have a vote on getting rid of Medicaid or getting rid of care for pregnant women, for children under the age of 12, or the disabled, why does he not suggest that?

We have been through this so many times before. ''Let the States decide what being disabled means.'' So then you have 50 different ideas of what a disabled person is, and it is complete chaos. I really do believe this is a country which has not given up on the idea that if a child is sick, no matter what its family's income is, that the child should get care. If a poor person is ill, or needs a test because something is desperately wrong and nobody knows what it is, America is the kind of country where you should be able to get that test without worrying about something called ''flexibility.''

I believe that health care is about giving people the opportunity to grow up to be what they really want to be. Health care is an enormous part of that. This Senator, in what appears to be a ''kind'' amendment, but what is really, in the judgment of this Senator, a very mean-spirited amendment, would just get as far away from doing anything for pregnant women and children and the disabled as the Senator possibly could. It is an amendment which should be absolutely crushed.

I yield the remainder of my time to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the Senator from Texas says this is a new entitlement. Let us look at what the present law is. The present law mandates that, in every State of the Nation, the State must provide Medicaid coverage for every child 5 and under up to 133 percent of poverty, and for those over the age of 5, it is up to age 12 and lower, to 100 percent of poverty; and that increases it by a year each year so that by 2002, every child up to the age of 18 will be mandated coverage. So this is no new entitlement.

Second, the Senator from Texas says, ''What arrogance for us to say to these States they must cover children up through the age of 12, 100 percent of poverty and below. What right have we to levy such a mandate on the States?'' What he fails to mention is that we are sending the States $800 billion over the next 7 years—not million, but billion, with a ''b.''

When you send out money like that to the States, it seems to me you are entitled to ask for something. What do we ask for? We say they must cover poor children, 100 percent of poverty, up through the age of 12. Do we say what kinds of coverage, what the health care package is? No. It could be the most modest package. Indeed, one aspirin a year could be the health care package.

So to say this is arrogance, when we demand that the States cover this little group, come on now. I thought this was being offered with a sense of humor, but I see the Senator is serious about this.

So, Mr. President, I hope this amendment is resoundingly defeated because we have to stand for something around this place. When we send out $800 billion, we are entitled to ask for something on behalf of the States' poor.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from West Virginia has 23 seconds. The Senator from Texas has 48 seconds.

Mr. ROCKEFELLER. I yield back my time.

Mr. GRAMM. I want to conclude the debate.

Mr. President, we are reducing funding for the existing Medicaid Program by $187 billion. The Governors agreed to this reduction. But on one basic part of the agreement, they asked that if we were going to reduce funding that we let them run their program, which they are funding in conjunction with us.

Now what is happening is the Senator from West Virginia and the Senator from Rhode Island are saying, OK, we are giving you less money, but we are going to tell you how you have to run this program. As for this talk of ''getting rid of Medicaid''—nobody is talking about getting rid of Medicaid. And ''mean spirited''—I flatly reject the notion that the Senator from West Virginia loves the children in Texas or Rhode Island more than the Governor of Texas and the Governor of Rhode Island loves the children in their own States.

The tide of history is moving against the ''Washington knows best'' policies advanced by the Senator from West Virginia and the Senator from Rhode Island, and this provision may stick today, but its days are numbered. We have to stop telling the States how to run programs in their own jurisdiction, based on our own arrogance that only we know best and only we care.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I believe, under the agreement, the Senator from Massachusetts, Senator KERRY is next. I yield to him 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 2979

(Purpose: To increase the Federal minimum wage)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] for himself and Mr. KENNEDY, proposes an amendment numbered 2979.

At the appropriate place in the bill insert the following new section:

''SEC. . MINIMUM WAGE.

(a) FINDINGS.—

''(1) The federal minimum wage has not been raised since 1991; and

''(2) The value of the minimum wage, after being adjusted for the bite of inflation, is at its second lowest annual level since 1955, with purchasing power 26 percent below its average level during the 1970s and 35 percent below its peak value in 1968, and unless it is increased it will in 1996 have its lowest value in over 40 years; and

''(3) The value of the minimum wage as a percentage of the average nonsupervisory wage averaged 52.2 percent during the decade of the 1960s, 45.8 percent during the decade of the 1970s, 40.4 percent during the decade of the 1980s, and currently is 37.7 percent; and

''(4) The minimum wage earned by a full-time worker over a year fails to provide sufficient income for a family of three to provide that family a standard of living even reaching the national poverty level, and, in fact, provides an income that equals only 70 percent of the federal poverty level for a family of three; and

''(5) There are 4.7 million Americans who usually work full-time but who are, nevertheless, in poverty, and 4.2 million families live in poverty despite having one or more members in the labor force for at least half the year: and

''(6) Nearly two-thirds of minimum wage workers are adults, and 60 percent are women; and

''(7) The decline in the value of the minimum wage since 1979 has contributed to Americans' growing income disparity and to the fact that 97 percent of the growth in household income has accrued to the wealthiest 20 percent of Americans during this period; and

''(8) The effects of the minimum wage are not felt only among the lowest income workers and families but also are felt in many middle-income families; and

''(9) The preponderance of evidence from economic studies of the effects of increases in federal and state minimum wages (including studies of state minimum wage increases in California and New Jersey) at the end of the 1980s and in the early 1990s suggests that the negative employment effects of such increases were slight to nonexistent; and

''(10) Legislation to raise the minimum wage to $5.15 an hour was introduced on February 14, 1995, but has not been debated by the Senate—

''Now, therefore, it is the sense of the Senate that the Senate should debate and vote on whether to raise the minimum wage before the end of the first session of the 104th Congress.''

Mr. KERRY. I yield myself 3 minutes, Mr. President. I emphasize that this is a sense of the Senate, No. 1; and, No. 2, it does not set a specific figure at this time, though many of us would like to.

It simply says that the Senate will go on record as being prepared to debate and vote on the raising of the minimum wage, which was introduced last February, that we will vote on it before the end of this first session.

Why is that important, Mr. President? Well, from 1979 until 1995, 79 percent of the increase in household income in America has gone to the top 20 percent—the 20 percent wealthiest Americans. The minimum wage which, during the 1960's, was at about 52 percent of the nonsupervisory wage, and during the 1970's was at about 45 percent, and during the 1980's was at about 40 percent, is today at 37 percent of the nonsupervisory wage.

That means, Mr. President, that for those two-thirds of the people on the

minimum wage who are adults—60 percent women—they are working at 70 percent of poverty level in this country today—70 percent of poverty level. Now, the whole theory of this country for years was based on the notion that we would value work, and if people went to work they would be able to break out of poverty. During the 1960's and 1970's, we respected that by keeping the minimum wage commensurate with the poverty level.

But ever since 1991, where we only caught up to a small percentage of the decrease of the prior 9 years, when there was no increase, we have had another 13 percent decline in the value of the purchasing power of the wage. So the wage, today, has a 26-percent purchasing power of what it had previously, and it is about to be at a 40-year low. In over 40 years, by 1996, if we do not change the minimum wage, it will never have been so low.

Mr. President, if you are going to be pro-family, if you are going to be pro-work, if you are going to be pro-community, you have to respect the notion that somebody ought to be able to take home a decent wage for an hour's work and for a week's work. The fact is, Mr. President, that under the current constraints, it is impossible for people to be able to do that, and we must go on record as really being pro-family, in an effort to try help them. I yield 1½ minutes to the senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join with my colleague in urging the Senate to accept the sense-of-the-Senate resolution. Members can wonder why this is appropriate. Included in the legislation is the earned income tax credit, which is a program to try to provide some relief for the working poor. That program helps to provide assistance, particularly with heads of households who have children.

The minimum wage is for those families that do not have many children. The minimum wage provides the greatest advantage for the single heads of household.

This amendment is prochildren because 70 percent of those that work full-time have children in their families. This amendment is for women, working women, because 60 percent of all minimum wage earners are working women.

This is for full-time workers, Mr. President. Sixty-six percent of all minimum wage recipients are full-time workers.

Once again, if we care about children, if we care about working women, if we care about making work pay in America, we will support this amendment.

Mr. KERRY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes remaining and the Senator from Massachusetts has ½ minute.

Mr. DOMENICI. I yield back my time.

Mr. KERRY. The minimum wage worker today will earn $8,500 for full-time work. The poverty line is $12,500. Every economist, conservatives and liberals alike—at Harvard, and Friedman, say you have to have a combination of the earned income tax credit and the minimum wage to truly permit people to break out of poverty.

We can do this, as every study shows, without losing jobs—in fact, as New Jersey showed, creating further employment.

I hope my colleagues will go on record as being willing simply to debate and vote on this issue.

Mr. KENNEDY. Will the Senator from New Mexico in his typical gracious and wonderful way be willing to give me 15 seconds?

Mr. DOMENICI. As the evening passes, I am getting less and less gracious.

I ask Senator KERRY of Massachusetts, did he mention a great economist from the University of Chicago in his wrap-up?

Mr. KERRY. I did not mean to. I meant to mention the one from Harvard.

Mr. DOMENICI. It was not Friedman from Chicago?

Mr. KERRY. No.

Mr. DOMENICI. Because he does not think this works at all. He thinks this makes for more people—I do not have any time left and we will get on with a vote.

Mr. KERRY. There are 101 economists and 3 Nobel laureates, and 7 past presidents of the Economic Association who endorse this increase.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2980

(Purpose: To make technical amendments to title V)

Mr. DOMENICI. Mr. President I have an amendment on behalf of the Energy Committee, for Senator MURKOWSKI, the chairman, and Senator JOHNSTON, the ranking member. It is a technical amendment that will correct the reconciliation statute that the Energy Committee passed. I believe it is acceptable.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. MURKOWSKI, for himself, and Mr. JOHNSTON proposes an amendment numbered 2980.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 304, line 20, delete ''follows:'' and insert in lieu thereof ''follows (except that all amounts in excess of $20,000,000 in fiscal year 2003 and all amounts in fiscal year 2004 shall not be available for obligation until fiscal year 2006):''.

(2) On page 361, line 7, delete ''thereafter,'' and insert in lieu thereof ''thereafter, except for fiscal years 2003 and 2004,''.

Mr. DOMENICI. Am I correct, I say to the whip, is this acceptable?

Mr. FORD. I do not know. I have not seen it. Apparently, the Budget Committee ranking member is willing to accept it.

Mr. EXON. We have no objection. I agree to accept the amendment.

Mr. DOMENICI. I yield back my time.

Mr. EXON. I yield back.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOMENICI. Is it appropriate under the unanimous consent that we adopt this amendment, or must we hold it?

The PRESIDING OFFICER. If there is a unanimous consent agreement to adopt the amendment, that may be done.

Mr. FORD. Mr. President, we should keep it going. It is the ninth amendment.

Mr. DOMENICI. We will put it in the sequence in this particular position.

Mr. EXON. According to my list we have Senator KENNEDY next.

Mr. DOMENICI. We have one amendment remaining.

I want to state to the distinguished ranking member, Senator EXON, the majority leader requests that we do some of your amendments, giving us additional time. They are not yet finished in terms of drafting. It must be one with at least 5 minutes on a side.

Could you proceed to the Kennedy-Wellstone-Pryor and reserve our one remaining?

Mr. EXON. That sounds reasonable.

Mr. DOMENICI. If we come in perhaps after 30 minutes and are ready, we could intervene.

Mr. EXON. I see nothing wrong with that. We can move on to the Kennedy amendment, the next amendment on my list. I yield 5 minutes to Senator KENNEDY.

AMENDMENT NO. 2981

(Purpose: To strike the provision allowing the transfer of excess pension assets)

Mr. KENNEDY. I send to the desk an amendment on behalf of myself and the Senator from Kansas, Senator KASSEBAUM, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mrs. KASSEBAUM, proposes an amendment numbered 2981.

Strike section 12807.

Mr. KENNEDY. Mr. President, I yield myself 2½ minutes.

Mr. President, this proposal allows corporations to remove money from pension plans and use it for nonretirement purposes. That particular proposal is included in the Republican measure that is now before the U.S. Senate.

The Republican budget, therefore, hits older Americans not once but twice. The Medicare cuts are an outrage and so is the raid on workers' pensions. No one can claim they are saving

the pension system. The pension system is not broken. We have no right to give away $20 billion of pension funds that do not belong to us and do not belong to the Federal Government.

The $20 billion that the Republican budget gives away belongs to workers and retirees who have given up wages to have that money contributed to their pensions. The bill is an invitation to corporate raiders and greedy executives to loot the pension plans of their workers and retirees.

What looks like overfunding today can be underfunding tomorrow. The Senator from Kansas, Senator KASSEBAUM, put it well several years ago when she said, ''If stocks and bonds drop in value, as they will at some point, these surpluses could evaporate like the morning mist.''

The history of the Pension Benefit Guaranty Corporation over the past 20 years makes it clear that today's well-funded company can become tomorrow's massive pension bankruptcy.

Congress should be worried about plan underfunding, not how to give away surplus assets that have been built up for retirees. The danger of underfunded plans is what Congress ought to be addressing.

We passed the Pension Protection Act last year to strengthen pension funding. It makes no sense to turn around a year later and weaken pension funds in a way that puts both retirees and taxpayers at risk.

This issue presents a stark choice about who we represent here in the Senate. Which side are we on? Are we on the side of the workers and retirees who struggle to find some economic security in their old age? Or on the side of the wheeler dealers, corporate raiders, and the super rich? I want the Senators to say no to this raid on retirees and defeat this unconscionable attack on the pension funds.

Mrs. KASSEBAUM. Mr. President, I want to take a few moments this afternoon to discuss a provision in the reconciliation package that has attracted relatively little attention to this point.

As many of my colleagues know, the House reconciliation bill includes a measure designed to generate approximately $10 billion in tax revenue by doing away with penalties Congress imposed in 1990 on pension fund withdrawals. The House proposal generally allows companies to take money from pension plans that are more than 125 percent funded and use those funds for any purpose, without informing their workers.

In response to a wave of corporate takeovers and pension raids in the 1980's, Congress in 1990 imposed an 50-percent excise tax on pension fund reversions, except in limited circumstances. The idea was to make it costly for companies to take assets from their pension plans. And, in fact, the raids on assets ceased almost entirely. Before this change, however, about $20 billion was siphoned from pension funds in just a few years, many pension plans were terminated, and thousands of workers saw their pensions replaced by risky annuities that provided lower benefits.

The reconciliation package before us includes a pension reversion measure that is similar to the House proposal. Under the Senate bill, excess pension assets could be wihdrawn—with little or no penalty—to fund active and retiree health benefits, underfunded pension plans, disability benefits, child care, and educational assistance plans.

Mr. President, this represents a significant change in pension policy.

I understand that there are approximately 22,000 pension plans covering 11 million workers and 2 million retirees that have assets in excess of 125 percent of current liability, and that the Joint Committee on Taxation estimates that the pension reversion provisions contained in both the House and Senate bills could result in the removal of tens of billions of dollars in assets from these plans.

Therefore, while the Senate proposal clearly is more limited than the House proposal, I nevertheless must oppose it. I understand there will be an amendment to strike this provision that will be offered by the ranking member of the Senate Labor and Human Resources Committee, Senator KENNEDY. I want to make clear to my colleagues that I intend to support that amendment.

The Senate Committee on Labor and Human Resources, which I chair, shares jurisdiction over the Employee Retirement Income Security Act [ERISA] with the Committee on Finance. In the past, the Labor Committee has taken an active role in pension security and pension reversion issues. In fact, the provision reported by the Finance Committee contains modification to title I of ERISA, which clearly fall within the Labor Committee's jurisdiction.

Yet the Labor Committee did not consider the pension provisions contained in the legislation before us. And neither the Finance Committee nor the Labor Committee has held hearings to consider modifications of this nature in the pension reversion area.

Mr. President, as I said, the Senate proposal clearly is more limited than the House proposal. I also believe that there may be valid reasons to revisit the pension reversion penalties that were imposed in 1990.

However, given the actions that led to the imposition of the excise tax, I strongly believe that any modifications in this area should be given full consideration by the committees of jurisdiction and that we should weigh heavily the genuine possibility of adverse consequences to plan participants, the Federal pension insurance program, and the national savings rate that may result from a change in pension policy of this magnitude.

Therefore, I intend to support the KENNEDY amendment and I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. I yield 2 minutes to the Senator from Florida.

Mr. GRAHAM. Mr. President, I ask unanimous consent to be listed as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. In an earlier debate I mentioned this is legislation filled with risk. We have now identified another one of those areas of risk. Have we forgotten so soon? It was just a matter of a few years ago when we were having pension plans across America fail because they were underfunded.

In many cases, they failed because they had been used by corporate raiders as a means of financing mergers and acquisitions which then destroyed the jobs of the very people for whom the pension fund was intended to protect.

I cannot believe in 1995 we are about to not only make it easier but, I am going to suggest, positively encourage this type of behavior. Why would we encourage this behavior? If a chief financial officer of a corporation failed to take advantage of this program, he or she ought to be fired for corporate malfeasance.

Here is what we are about to do. We allow a corporation in profitable years to overfund their pension, to put in more than is required in order to meet that year's annual pension amount. Then, when the corporation in a business cycle has a not-so-good year, we are allowing them to reach in and withdraw those funds.

What is the significance to the U.S. Treasury? They take a full deduction when they put the money in the pension. They pay no taxes when they take it out, because they had planned to take it out in a year in which they owe no taxes.

This is an outrage, Mr. President. It is a disgrace that it is part of this legislation. It has no part in a bill which is intended to balance the budget, to balance the budget of the Federal Government off the security and hard work of working men and women who depend on these funds for their well-being, and to turn it over to corporate raiders.

I urge adoption of this amendment.

Mr. MOYNIHAN. Mr. President, the Republicans' revenue recommendations contain a slew of tax breaks for businesses that do not belong in a deficit reduction bill. One of the most egregious of these special tax breaks is a provision on corporate pension transfers that would allow employers to take billions of dollars in excess assets from pension plans to the extent of their costs for other employee benefits—such as health care for active employees—without paying the current-law excise tax. The proposal opens the door for up to $47 billion to be removed from the pension system, thereby endangering workers' retirement security and increasing the risk to the Pension

Benefit Guaranty Corporation [PBGC] and U.S. taxpayers.

The Republicans have included this provision among a small group of so-called corporate welfare reforms that raise revenue through restrictions on tax rules under which the affected companies currently operate. The pension transfer proposal, however, is hardly a reform; rather, it is a conspicuous corporate welfare program of its own. The proposal merely frees workers' pension funds to be used for general corporate purposes, such as executive bonuses or extra shareholder dividends.

Earlier this year, the Finance Committee devoted several weeks to hearings on how to increase our Nation's savings rate. We found that the savings rate is terribly low, and that the high rate of consumption was hurting the economy. Yet, the Finance Committee has now recommended to the Senate a provision that both weakens the retirement security of employees and removes assets from a key source of savings—employees' pension funds.

Despite Republican assertions to the contrary, the proposal poses a serious threat to the security of the affected pension plans. First, the pension transfer proposal generally would measure excess assets using a standard that is easily manipulated and thus, I believe, inappropriate for this purpose. Under the provision, a pension plan would be considered to have excess assets, eligible to be withdrawn, to the extent its assets exceed 125 percent of the plan's current liability. Under this standard, the employer is free to use a range of interest rate and mortality assumptions, and need not account for the effect of early retirement or contingent events such as plant shutdowns. Thus, an employer can choose favorable actuarial assumptions to minimize the plan's liabilities and maximize the excess assets it is entitled to withdraw from the retirement plan under the proposal. Consequently, the cushion provided by the proposal cannot ensure that adequate funds remain to fulfill the amount of the employees' accrued benefits.

The laxity of this standard is demonstrated in PBGC's analysis of several large plans. PBGC's analysis of 10 large plans revealed that a transfer in accordance with the provision in the bill could leave those plans with less than 90 percent of the funds needed to pay benefits on termination. PBGC would be expected to pay the difference, up to the guaranteed level.

Moreover, the current liability standard is highly susceptible to shifts in the stock or bond market. The stock market is currently at an all-time high; any subsequent drop in the market could have a significant adverse effect on a plan's asset values, thereby causing a plan that currently has excess assets under the proposal to become underfunded. Thus, a more substantial cushion is necessary than that provided by the proposal to protect against future market shifts.

The Republicans note that the standard used in this proposal is the same standard enacted for pension transfers for retiree health benefits in the 1994 Uruguay Round Agreements Act [GATT]. However, the two provisions are vastly different in scope. The potential transfers allowable under this proposal would dwarf the amount of transfers allowable for use in meeting retiree health costs under GATT. Care was also taken in GATT—unlike in the Republican proposal—to create a protective firewall that is, a maintenance of effort requirement. Thus, the proposal will increase considerably the risk of loss to the PBGC.

Finally, by exempting employers from the current law excise tax, the proposal encourages employers to use pension plans as tax-sheltered corporate piggy banks. Under current law, if an employer terminates its plan and takes a reversion, an excise tax of 50 percent of the reversion applies. One purpose of the excise tax is to recapture the tax benefit the employer enjoys from earnings that have grown tax-free on the contributions to the pension plan. In 1990, GAO found that an excise tax of between 17 percent and 59 percent was necessary—depending on the plan population and the underlying investments—for the Federal Government to recapture the tax benefit to employers when assets in a pension plan are withdrawn by the employer. In addition, the proposal removes the deterrent effect of the excise tax on plan terminations: An employer can first take the excess assets and subsequently terminate the plan, thus avoiding the excise tax because there would be no additional assets left to revert to the employer as a result of the termination.

Yet, employers under the committee's proposal are exempted from the excise tax, and are merely required to include the amount taken into income. Any company with a net operating loss carryover can offset the income from the pension transfer with its accumulated net operating losses. Thus, the tax paid by employers on a reversion under this proposal could be zero. Moreover, under this proposal, an employer can easily terminate its plan after draining it of excess assets, thus avoiding the termination excise tax altogether.

Senate Republicans argue that the use of the pension transfers under the proposal is restricted to meeting the costs of other qualified employee benefits—primarily health benefits for active employees. Make no mistake: This requirement is merely cosmetic. The proposal allows employees' pensions to be siphoned off for general corporate use. Nearly all employers who would take advantage of this proposal already provide health benefits to their employees. Thus, using these excess assets for existing health benefits merely frees up funds they would have spent anyway, to be used in turn for executive bonuses, extra shareholder dividends, or the like.

In light of all these defects, I believe the proposal is fundamentally flawed as a matter of retirement and tax policy, and strongly urge my colleagues to support my amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts has ½ minute remaining.

The Senator from New Mexico.

Mr. DOMENICI. I yield our 5 minutes to the distinguished chairman of the Finance Committee, Mr. ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, excess pension assets do not belong to employees. The reason for this is that under a defined benefit pension plan, the employer promises to pay an employee a fixed monthly retirement benefit. Under current law, after these benefits are fully funded the employer can take out excess assets upon plan termination.

Excess pension asset transfers will not reduce or jeopardize workers' pensions. Only the most overfunded pension plans will be allowed to transfer excess pension assets. According to a former chief actuary of the PBGC, only 1 percent of plans covered by the PBGC terminate in a given year without sufficient assets. And after the passage of the stringent funding rules in last year's GATT legislation, it is reasonable to expect the incidence of plan failures will decrease in the future.

The proposal also contained several provisions designed to guard against plan underfunding. First, employers are required to keep a substantial cushion of excess pension assets in the plan. And I point out this is the same measure that President Clinton proposed for retiree health transfers in the Retirement Protection Act of 1994.

The other side has attacked this proposal. But is it not interesting that their own President proposed the same measure that is contained in the legislation before us tonight.

The minimum cushion is 125 percent of plan liabilities, and in many cases the cushion is as high as 150 percent of plan liability. In fact, a national actuary firm prepared a study that concluded that more than 70 percent of the overfunded plans will be subject to a cushion greater than 125 percent of plan liability. At these funding levels, the pension plan will always be at the full funding limit.

In fact, plans at the full funding limit are not permitted to make new contributions to the pension plan. Plan trustees are required to use a plan asset valuation method that results in the largest asset cushion. And, to guard against fluctuations in interest rates and stock market values, the proposal requires plan trustees to use January 1, 1995, or the most recent valuation date before the transfer, whichever results in the largest asset cushion.

Employers must use the excess assets to fund ERISA-protected employee

benefit plans that cover a broad group of employees. That is a most important point that must and should be understood. Employers can only take out the excess assets to fund other ERISA-protected employee benefits that cover a broad group of employees. That is just common sense. And the plans that can be funded with excess assets are limited to—and let me spell them out—other retirement plans of the employer, including underfunded retirement plans; active and retiree health plans; child care; disability; and educational assistance.

This is a good plan, and, for that reason, I must oppose amendment of Senator KENNEDY.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Senator KENNEDY.

Mr. KENNEDY. I yield the final 30 seconds to the Senator from Vermont.

Mr. President, I ask unanimous consent that Senators JEFFORDS, MOYNIHAN, BINGAMAN, EXON, WELLSTONE, SIMON, and GRAHAM be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I rise in vigorous support of removing these provisions in this bill because we are dealing here with a very serious problem of pension plans. This will result in tens of billions of dollars being withdrawn from employee pension plans at a time when we are in absolute need of improving our pension capacity. It is done without any hearings. It is a matter that is within the jurisdiction of our committee. We would want desperately to make sure that what things are done are done correctly and appropriately.

I vigorously oppose the provisions that are in the bill and support the strike amendment.

The PRESIDING OFFICER. All time has expired.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the next Senator on the list is the distinguished Senator from Minnesota, Senator WELLSTONE. I yield him 5 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

AMENDMENT NO. 2982

(Purpose: To scale back corporate welfare in the tax code by eliminating the deduction for intangible drilling and development costs for oil, gas, and geo-thermal wells, by eliminating the corporate minimum tax provisions, by eliminating the foreign earned income exclusion, and by eliminating the section 936 possession tax credit, and use the savings for deficit reduction)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2982.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 1 of subtitle I of title XII, insert:

SEC. . REPEAL OF EXPENSING OF INTANGIBLE DRILLING COSTS.

(a) FINDINGS.—The Senate finds that—

(1) this legislation, as reported by the Senate Committee on the Budget on October 23, 1995, significantly reduces funding for medicare and medicaid, student loans, food stamps, and other federal efforts critical to working families across the country, in order to pay for tax breaks to benefit primarily wealthy corporations and others;

(2) this legislation will significantly increase the tax burden on an estimated 17 million working families, by modifying the earned income tax credit, which has enjoyed longstanding bipartisan support;

(3) the Congressional Joint Tax Committee has estimated that tax expenditures cost the United States Treasury over $420 billion annually, and they estimate that amount will grow by $60 billion to over $480 billion annually by 1999;

(4) Congress should reduce the federal budget deficit in a way that is responsible, and that requires shared sacrifice by eliminating many of the special interest tax breaks and loopholes that have been embedded in the tax code for decades, making the tax system fairer, flatter and simpler;

(5) eliminating special interest tax breaks would enable Congress to do real tax reform, making the system fairer and more simple by flattening the current tax rate structure and eventually providing real tax relief for working families;

(6) the savings generated by eliminating these special tax breaks immediately can be used to reduce the deficit.

(b) ELIMINATION OF DEDUCTION FOR CERTAIN INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—Section 263 (relating to capital expenditures) is amended—

(1) by adding at the end of subsection (c) the following new sentence: ''This subsection shall not apply to costs paid or incurred in taxable years beginning after December 31, 1995.'', and

(2) by striking subsection (i).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1995.

(d) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

On page 1550, beginning with line 13, strike chapter 3 of subtitle B of title XII, and insert:

SEC. 12161. REVENUE LOCK BOX.

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from striking section 12161 and section 12162 as contained in the Balanced Budget Reconciliation Act of 1995 as reported by the Senate Committee on the Budget on October 23, 1995, in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. . ELIMINATION OF EXCLUSION FOR FOREIGN EARNED INCOME.

(a) IN GENERAL.—Subsection (a) of section 911 (relating to citizens or residents of the United States living abroad) is amended by striking ''subtitle,'' and all that follows and inserting ''subtitle—

''(1) for any taxable year beginning before January 1, 1996, the foreign earned income of such individual, and

''(2) for any taxable year, the housing cost amount of such individual.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1997 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

Strike section 12805 and insert:

SEC. 12805. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) REPEAL.—Section 936 is amended by adding at the end the following new subsection:

''(j) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1995.''

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

Mr. WELLSTONE. Mr. President, this amendment scales back corporate welfare in the Tax Code by eliminating several loopholes, including the deduction for intangible drilling and development costs for oil, gas, and geothermal wells, the corporate minimum tax provisions, the foreign earned income exclusion, and section 936, the possession tax credit. It locks all of the savings away to be used for deficit reduction—and only for this purpose.

The savings from these amendments, all to go for deficit reduction, range between $60 and $70 billion, depending on

whose estimates you use. I do not have time to go through each of these corporate welfare provisions, but let me simply say that over and over and over again this week we have been talking about basic fairness, and that closing these loopholes is an attempt to make the Tax Code fairer.

I will tell you right now, as people in the country look at this deficit reduction bill, they know that it is based upon the path of least political resistance. They know that it is disproportionately working families and middle-income people and low- and moderate-income people who have been targeted.

Mr. President, I do not know one citizen in Minnesota, or in any of our States, if the truth be told, who would not agree with the proposition that we ought to close some of these loopholes. And by closing some of these loopholes, with these benefits going primarily to large companies that do not need the benefits, that have not been asked to tighten their belts, instead of allowing these to continue we would have more money to slash the deficit further, to invest in law enforcement, in education, in children, in health care, in transportation, in child care, in child nutrition programs.

It is a matter of priorities. Donald Barlett and James Steele won a Pulitzer for their book here, ''America: What Went Wrong?'' They are two really fine investigative reporters for the Philadelphia Inquirer. And in the section of the book ''America: Who really Pays the Taxes?'' they have an interesting paragraph:

> For over 30 years, Members of Congress and Presidents, Democrats and Republicans alike, have enacted one tax after another to create two separate and distinct systems, one for the rich and powerful called the privileged person's tax law, and another for everyone else called the common person's tax law.

Mr. President, this amendment will move us back toward a Tax Code that treats people fairly. It is time for some basic fairness, and that is the meaning of this amendment.

I reserve the rest of my time.

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Who yields time? The Senator from New Mexico.

Mr. DOMENICI. Mr. President, it sounds good to talk about getting rid of depreciation and intangible drilling costs for the oil and gas industry in the United States until you understand that most of these go to independent producers, those who really find the diminishing supply of both oil and gas in America. These are not exceptional depreciation allowances. They are not some gift. They are absolutely necessary unless we want to make a decision that America's own oil and gas production should disappear and we should not have any.

We are importing oil now, about half of our needs, and that is growing. And speak of losing jobs and losing growth. This industry that we would now try to take away the last, the last thing they have that might give them a chance to survive, succeed, employ people and produce oil, has already lost 250,000 jobs since the oil slump began.

We fought Desert Storm, and make no bones about it, because oil is precious to the United States, because it is a commodity without which our American economy for now and the foreseeable future cannot work.

Now, why would we come to the floor in a balanced budget activity and decide that we are going to take away what will keep the little industry we have left for producing oil and gas and the men and women who work in it, produce it and make a living? To me, it seems absolutely absurd. It seems kind of like backward economics to go out there and pluck this industry, perhaps because there is none in some States, or perhaps people think when oil and gas is mentioned it is Exxon or that it is Mobil—nothing wrong with them, but obviously in the United States, the principal people working and producing oil and gas are independent producers. They are finding most of the new oil. They are operating most of the rigs out there now. And I might just say, at this particular time we have the lowest rig count since we started keeping records. That means that even with these allowances we are hardly keeping pace with producing any new oil in America's oil patch.

Now, Mr. President, Senator NICKLES wants to speak about a minute or so on this, and if the Senator would permit me, I will reserve the remainder of my time and let the Senator complete his with the hope that Senator NICKLES will arrive.

Mr. WELLSTONE. Mr. President, I will just take a minute and then wait to respond later, if I could.

The PRESIDING OFFICER. The Senator from Minnesota has 2½ minutes.

Mr. WELLSTONE. First of all, Mr. President, we have on the part of my colleagues on the other side of the aisle a proposal for exporting more oil now from the North Alaska slopes, at the very time we are saying we are worried about our own supply. That is already contained in this bill.

Second, this is typical of what happens when we try to scale back corporate welfare and close tax loopholes. Every time you take on a powerful interest like this as opposed to regular people, opponents claim that the sky is going to fall in. It is not true that this change would spell the demise of the oil and gas industry. Just like other industries and other businesses, they should be made to capitalize their costs, to write off their costs over a longer period of time—the life of the asset. This is a special exemption, just for one industry. That is what is going on here. And this is why people do not trust this process. Every time it is a powerful interest whose benefits are under fire, we hear all sorts of reasons why they cannot be asked to tighten their belts. But, boy, when it comes to Medicare, when it comes to education, when it comes to children, belt-tightening is all the rage. This amendment basically says, let us have a standard when it comes to some deficit reduction. Let us have standard of fairness.

I will reserve the rest of my time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I regret to tell my friend, Senator WELLSTONE, that average people use oil. Without oil for America, average people suffer. Medicare suffers. Hospitals close.

Does anyone recall when we were in the small embargo situation with Iran and the cars were piled up at our gasoline stations? They were even shooting each other in the excitement of trying to get up there and see if they could get some gasoline in their cars.

All the gasoline comes from oil. Why should we stop producing oil in the United States, take away the tax deductions that are legitimate that they have? They are just as legitimate as everybody else's deduction. They are not a gratuity or a gift. So it might be nice to say, let us take out after this industry, but it is amazing when this industry does not produce the very people who Senator WELLSTONE is so worried about are the ones who suffer because everybody suffers. Our standard of living suffers. Inflation goes rampant. And I do not want to take that chance.

I reserve the remainder of my time.

Mr. WELLSTONE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. STEVENS). The Senator has 1 minute, 40 seconds.

Mr. WELLSTONE. I will take 30 seconds on this.

I remind my colleague that altogether this particular exemption is only about $2.5 billion over the next 5 years. This is a whole package, worth tens of billions, that says, let us close these tax loopholes. People in the country want us to.

Second, Mr. President, in all due respect to my good friend from New Mexico, this is exactly the line we so often hear: the sky is falling in. No one is talking about eliminating the oil industry. Nobody is talking about not having oil business. We are just saying, how about closing these tax loopholes so that when companies do not pay and——

The PRESIDING OFFICER. The Senator's 30 seconds have expired.

Mr. WELLSTONE. I thought the Chair said I had 1 minute, 45 seconds.

The PRESIDING OFFICER. I am sorry. The Chair thought the Senator meant to notify him when 30 seconds expired.

Mr. WELLSTONE. I am sorry. Let me finish very briefly and reserve the remainder of my time.

Other people pay more.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. How much time is on the other side, Mr. President?

The PRESIDING OFFICER. One minute.

Mr. DOMENICI. I yield 1 minute to Senator NICKLES.

The PRESIDING OFFICER. Senator NICKLES has 1 minute and 5 seconds.

Mr. NICKLES. Mr. President, I urge my colleagues to oppose this amendment. I just heard about it. I understand he says, well, we want to take away this advantage, IDC. Really, what my colleague is saying is, you should not be able to deduct ordinary out-of-pocket, nonrecoverable business expenses. That is ludicrous. It should not happen. He happens to be wrong on that issue.

I think I heard my colleague say that he wanted to eliminate the 936 benefit that goes towards Puerto Rico. We do that in this bill. We do it in the bill over 7 years and over 6 years. There are two different ways you count that benefit. We phase it out over 6 or 7 years. I think it is a responsible provision. I guess he wants to do it immediately, but you have a lot of firms that have made investments. I think that would be very inappropriate.

My colleague may call it corporate welfare, but again I think this committee has taken some very responsible action in allowing people to deduct their out-of-pocket, nonrecoverable business expenses as should be allowed and phasing out the tax benefit that was directed towards Puerto Rico.

So I would urge the Senate to oppose my colleague's amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator has 1 minute.

Mr. WELLSTONE. Mr. President, facts are stubborn things. It is a fact that IDC's are a special exemption. With my amendment, you could still in this industry capitalize your costs, depreciate them over a longer period of time, just like with most other industries.

This is just a special exemption that most other businesses do not get. We have been talking about the tax rate in Puerto Rico. In 1993, I wanted to phase it out, even though I was sympathetic to concerns that doing so suddenly would be unfair. That didn't happen. And now, we have 7 to 10 more years provided for in this bill. My amendment says that by 1997 we have to eliminate it.

My amendment says, colleagues, that we have to make tough choices. Barlett and Steele have it right. What do you have? One person's tax code is called the ''privileged person's tax law,'' and for everyone else, call it the ''common person's tax law.'' It is time we understand: regular people pay more because these loopholes allow often very profitable companies—some of the largest and most powerful companies in the country—are paying less.

This is revenue that the Government does not collect. We ought to have deficit reduction here. This is between $60 billion to $70 billion of deficit reduction based on a standard of fairness. We would have more for education, more for children, more for health care, more for law enforcement.

This is a perfect example of whether or not we will be willing to vote for people we represent or whether or not we are too beholden to powerful special interests. That is what this amendment speaks to.

I ask unanimous consent that copies of my prepared statements on each of the four loopholes, elaborating on my policy rationale for closing them, be included in the RECORD before the vote.

Mr. EXON. Mr. President, is all time expired?

The PRESIDING OFFICER. All time is expired.

Mr. EXON. Mr. President, the good news is that according to my record—and I believe my colleague will agree—we have three amendments left in this tier 2 category: Pryor, Conrad and Roth, in that order.

Is that the Senator's understanding?

Mr. DOMENICI. Finance Committee—Roth. We have been calling it ''Finance Committee.'' Yes.

Mr. EXON. Pryor, Conrad, Roth—Finance Committee.

Mr. WELLSTONE. Would the Senator from Nebraska yield for a moment, a split second?

Mr. EXON. Yes.

Mr. WELLSTONE. I ask unanimous consent that Senator FEINGOLD be included as an original cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I now recognize Senator PRYOR from Arkansas for his amendment and yield him the 5 minutes.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Could I yield myself 5 minutes and have an exchange with the Senator, a conversation that our leader asked me to have, if the Senator would?

Mr. EXON. Certainly.

Mr. DOMENICI. We have 17 amendments that are completed.

The PRESIDING OFFICER. The Senator from New Mexico has no time.

Mr. DOMENICI. Please?

The PRESIDING OFFICER. I am informed the Senator from New Mexico has no time.

Mr. DOMENICI. Where is the time, all on the Democrat side?

Could the Senator yield me 4 minutes to engage in this conversation?

Mr. EXON. I will.

Mr. DOMENICI. I say to the Senator, Senator DOLE has suggested, since we have 17 amendments to vote on now, we would like to vote on them tonight—that will put us well beyond 12 o'clock, and we will vote on them all—that we put over two amendments until morning, and that be the Pryor amendment and what the Senator has heretofore called the Roth amendment. And we would not change anything about those amendments in terms of votes—5 minutes of debate, and everything else—but they would be two that we would not lay down tonight.

We would go ahead and put CONRAD's in, if you would like, and that would leave two amendments for tomorrow. And then we could use this evening to see what the remaining lists of amendments are. We have 2 hours or 3 hours that we are going to be down here. The Senator's side and ours could put together the list which would follow after the end of our second tier, which is the goal. The Roth——

Mr. EXON. I would have to check on it. Could we put in a brief quorum call and see if—this surprises me. I do not know whether there is objection to it or not.

I know Senator PRYOR is ready to go. Could we put in a quorum call for a few minutes?

Mr. FORD. Would the Senator yield for one moment? We have another amendment.

Mr. DOMENICI. Yes.

Mr. FORD. You talked about the Pryor amendment. We have the Simon-Conrad amendment that is also mentioned. The Senator says take that one tonight and have Pryor tomorrow?

Mr. DOMENICI. I called it Conrad. I am sorry.

Mr. FORD. I do not believe Senator PRYOR is going to be willing to move his away from tonight.

Mr. EXON. Wait a minute. How many amendments? We have Pryor, Conrad, Roth. Is it Conrad-Simon? All right. We have three amendments; right.

Mr. DOMENICI. We call it Conrad; he calls it Simon.

Mr. EXON. All right.

Mr. NICKLES. One wears a bow tie.

Mr. EXON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand they have two amendments on their side. We will hold our Roth amendment until morning. So we will proceed with theirs at this point.

Mr. EXON. Mr. President, I thank the chairman of the committee.

I now recognize Senator PRYOR, as I did previously, and have awarded him the 5 minutes on our side.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. PRYOR. Thank you, Mr. President. I thank the Chair for recognizing me.

AMENDMENT NO. 2983

(Purpose: To provide for the continuation of requirements for nursing facilities in the Medicaid Program)

Mr. PRYOR. Mr. President, in this 2,000-page piece of legislation, the

budget reconciliation bill of 1995, we would think that just about everything under the sun would have been thought of and included in this to consume some 2,000 pages.

But what we did not include in this reconciliation bill is something very, very vital, Mr. President, because those are the nursing home standards that we have had enacted since 1987, and if we fail to reenact those same nursing home standards on the Federal level, we will be failing to protect a very, very fragile and vulnerable asset, which is the elderly population of this country, some 2 million now residing in these American nursing homes.

Mr. President, I send the amendment to the desk. I send it to the desk on behalf of myself and Senator COHEN of Maine.

The PRESIDING OFFICER. The clerk will report.

Mr. PRYOR. I have several cosponsors. I will not read all of those at this time. It will consume too much time.

The bill clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. COHEN, Mrs. BOXER, Mr. BUMPERS, Mr. CONRAD, Mr. DODD, Mr. FEINGOLD, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, and Mr. KOHL proposes an amendment numbered 2983.

Mr. PRYOR. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 889, line 21, strike all through page 897, line 19, and insert the following:

''SEC. 2137. QUALITY ASSURANCE STANDARDS FOR NURSING FACILITIES.

''The provisions of section 1919, as in effect on the day before the date of the enactment of this title, shall apply to nursing facilities which furnish services under the State plan.

Mr. PRYOR. Mr. President, since we enacted OBRA 1987, we have seen a dramatic change in the care of the nursing home patients in our country. For example, we have seen a 38 percent decline in the number of physical restraints. Since the enactment of the OBRA 1987 nursing home regulations, which was, I might say, a bipartisan effort—the late John Heinz, former Senator Durenberger, former Senator George Mitchell, former Senator Jack Danforth from Missouri—we have seen a dramatic advance in all of the things that make the quality of care in nursing homes better; for example, in resident outcomes, a 50 percent increase in the number of dehydration cases that we have solved, and no longer do we find many of these patients dehydrated.

We see also just a characteristic of the nursing home population, Mr. President. And how are we going to afford to look them in the eye and say that we failed to adopt any Federal standards in the budget reconciliation bill and we are going to say to the 77 percent of those who need help dressing, to the 63 percent who need help in toileting, the 91 percent who need help bathing, ''We are sorry, you can just make it on your own. We are doing away with all Federal standards. We are going to leave it to the States''?

But, Mr. President, the reason we have Federal standards today as a result of OBRA 87 is because the States were not meeting their obligation and their challenge.

Mr. President, I know that there are two or three of my colleagues who want to speak. I know that Senator ROCKEFELLER wants 30 seconds. I yield 30 seconds to Senator ROCKEFELLER.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

Mr. ROCKEFELLER. I thank the Presiding Officer and the Senator from Arkansas. If there was a sense upon my colleagues of nervousness just before Senator PRYOR offered his amendment—there was a lot of huddling—in the sense of what was going to happen, my colleagues noticed correctly. I think that there was an effort to try and not have a vote on this tonight, because this is one of the most important amendments that we will vote on in this entire, somewhat bizarre process.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PRYOR. I yield 30 seconds to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to be listed as an original cosponsor of the amendment. I point out that the arguments against this amendment are going to be that we ought to let the States have unbridled responsibility, discretion as to how to set these standards.

I should point out that in the year 2002 in my State, which has the highest percentage of persons over 80 in the country, that we are going to have 35 percent less funds than is currently projected to meet the needs of our elderly, our frail elderly.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. If there is any prescription for abuse, it is a 35-percent cut in funds and no Federal standards.

The PRESIDING OFFICER. The Senator's time has expired. Without objection, the Senator's request is granted.

Mr. PRYOR. Mr. President, I yield 20 seconds to the Senator from Maryland, Senator MIKULSKI.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, my father was in a nursing home for 3 years. He had Alzheimer's. We could go and visit him and make sure he was OK. But one of the things we need to know is when people are in a nursing home, they are often too sick to care for themselves or they are too sick to say how they are being cared for. If we do not have Federal standards around safety and staffing to be sure that our—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PRYOR. Mr. President, I am looking for Senator COHEN, our cosponsor on the other side. I do not see him.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. PRYOR. If Senator MIKULSKI needs an additional 20 seconds, I will be glad to yield to her.

Ms. MIKULSKI. Mr. President, the idea of safety is absolutely crucial, that we need adequate staff, but we need to have those standards so that if anyone is too sick to say how they are being cared for, we know that we are preventing their abuse, we know that they are receiving the right medication, we know that they are being adequately cared for.

The PRESIDING OFFICER. The Senator's time has expired. The Senator has 10 seconds left.

Mr. PRYOR. Mr. President, I want to conclude by thanking the distinguished Senator from Maine, Senator COHEN, for not only being a cosponsor, but also having labored for many years in this particular field. He supports strongly this amendment. I also would like—

The PRESIDING OFFICER. Thank you. The Senator's time has expired.

Mr. PRYOR. Mr. President, I also would like to acknowledge Senator BOXER of California who has truly spoken on many occasions and feels compassionate about this amendment.

Mr. DOMENICI. Mr. President, Senator CHAFEE is going to explain where we are. Let me just suggest, at Senator COHEN's suggestion, Senator CHAFEE, and others, the so-called Finance Committee amendment, which you are going to have an evening to look at, will have everything in it Senator COHEN wants and even further improvements than the one before us. So I do not want anyone to think we have done that after we defeat your amendment tonight, because it is in there and you all will see it when we get it circulated.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I commend the Senator from Arkansas for his efforts in connection with the nursing home standards and, indeed, he and I have worked together in the Finance Committee. I voted with him in connection with his amendment, which was defeated 10 to 10.

Since then, in conjunction with Senator COHEN and others on this side, we have prevailed upon what you might call the managers of the bill to put in a very good Federal nursing home standard provision. As regards nursing homes, there are two provisions in here that I think are superior to the provision that Senator PRYOR has, although I am not intimately familiar with everything that he has.

One, in the provision that we have, we remove the costly and duplicative requirement that standards perform so-called preadmission screening and annual resident review, which is known by the acronym of PASARR, and that

would not be included and it is my understanding that this is a rather good provision.

Second, we have a proposal that if the States have tighter inspection requirements than the Federal, then the States can apply to the Secretary of HHS for a waiver and have those tighter provisions included as the inspection requirements or the standard requirements for the nursing homes within that State.

You might say, ''Well, how do they go about enforcing it?'' We have a provision that it can be enforced by HCFA. So we think that this has a lot of provisions in it that have merit.

I urge those on the other side to take a look at this provision that is in the so-called managers amendment.

Mr. ROCKEFELLER. Will the Senator yield?

The PRESIDING OFFICER. There is still not quiet in the Chamber. The Senator is entitled to be heard.

Mr. GRAHAM. Will the Senator from Rhode Island yield?

Mr. CHAFEE. Quickly, because it is on my time.

Mr. GRAHAM. I agree with what you just said. I would like to be able to compare the specifics of what is going to be offered with what Senator PRYOR and others have offered. When will we have that opportunity?

Mr. DOLE. I can respond. I think that language is ready now. I think we are working on some other language, but that language is ready. That is why we wanted to wait until the morning so we can compare that.

Mr. GRAHAM. The difficulty is we are going to get this sometime in the morning and then be expected to vote on it. We are going to vote on this amendment tonight; correct?

Mr. CHAFEE. I think the suggestion was to put the vote off until the morning and to give you a chance to look at this particular provision.

Mr. GRAHAM. The vote on Senator PRYOR's amendment off until tomorrow?

Mr. DOLE. Both.

Mr. DOMENICI. Both; we ask for both.

The PRESIDING OFFICER. The Chair advises Senators to please go through the Chair so we keep some control.

Who seeks time? There is 1 minute 28 seconds left.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me indicate that we have addressed this concern, and I think as Senator CHAFEE pointed out, if we really want to find the best provision, we ought to compare the two. We may not vote on the PRYOR amendment tonight. I will decide how many amendments we vote on this evening. So we will have an opportunity to look at the language in both.

If you are looking for a political vote, we can have the political vote, but if you are looking for the best provision—it was worked out with Senator COHEN, Senator SNOWE, Senator CHAFEE, and others on this side of the aisle. We think it is a pretty good provision. So I hope if we are interested in getting the best provision in the bill, we will do as Senator DOMENICI suggested: Wait until morning, have a vote, find out which is the superior provision, and then vote accordingly.

The PRESIDING OFFICER. The Chair apologizes. The Chair did not ask the Senator from Rhode Island if he would yield to the majority leader.

Mr. CHAFEE. Do I still have control of the time?

I would have been delighted to have yielded that time.

The PRESIDING OFFICER. I again apologize and give back 20 seconds.

Mr. CHAFEE. Was there another question, or does that satisfy everyone?

The PRESIDING OFFICER. There are 18 seconds left to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask Senator COHEN if he wants to say anything?

Mr. COHEN. I believe I will get 2 minutes to speak.

The PRESIDING OFFICER. There is no time left on the Democratic side.

Mr. EXON. I yield 2 minutes off the bill to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Mr. COHEN. Mr. President, let me specifically address the issue whether or not this is a political effort on the part of my colleague and friend from Arkansas, Senator PRYOR.

We had a hearing this morning dealing with nursing home standards. I want to say, for the benefit of all who are here, I have been working with Senator DOLE, Senator CHAFEE, Senator SNOWE, and others, to try to make sure that the standards that were set in place by OBRA 1987 go back into place, that we have Federal standards and Federal enforcement of the nursing home rights, as such. Senator DOLE has been most amenable to that.

I think Senator CHAFEE is correct that we have actually made some improvements in cutting back on some of the things that do not need to be there, that are costing money and are duplicative. One issue remaining in my mind is, in fact, the extension of the waiver, so-called, to the States that have higher standards than required by Federal law. The concern I have is that if such standards are so high that they therefore would apply for a waiver, what in fact would be the role of the Federal Government as far as oversight and enforcement? If there will be strict oversight and enforcement, I would recommend we support the bill that we offered as part of the managers' bill. If, however, that is a major loophole that would be seen as such by those in the business itself—the nursing home industry, providers and consumers—I would have problems supporting the substitute contained in the managers' bill. I have not seen the language.

I think Senator DOLE is correct. We ought to put this off until tomorrow so we can compare the language. If we are satisfied there will be adequate oversight and enforcement authority retained by the Federal Government, I would recommend to my colleague from Arkansas that we accept the managers' bill.

Mr. PRYOR. If my friend from Maine will yield, Mr. President, let me remind my colleagues that in the managers' amendment to be offered by Senator ROTH tomorrow, the nursing home provision is only a very, very small part of it. There is going to be, as I understand it, a change in the Medicaid formula, also encompassed in the managers' amendment. This is only a small section of it.

I think we should go ahead according to schedule. We have all been here all day, playing by the rules. Let us vote for the Pryor amendment and the Pryor-Cohen amendment tonight, and if we need to change it tomorrow, we can, and we can look at it tomorrow.

The PRESIDING OFFICER. The time of the Senator has expired. All time on the amendment has expired.

Mr. PRYOR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, we are down to the final amendment, as I understand it, we will be debating tonight. Therefore, I yield the 5 minutes on our side to Senator SIMON for his distribution.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I yield myself 2 minutes.

AMENDMENT NO. 2984

(Purpose: In the nature of a substitute)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. CONRAD, proposes an amendment numbered 2984.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. SIMON. Mr. President, this is the amendment you have read about in the Washington Post when it says a ''Good Budget Compromise.'' This is the amendment the New York Times has editorialized about. This says balance the budget, number one. And we have a comprehensive program to do that. Number two, we eliminate the tax cut.

Senator SPECTER said, ''If you would have a secret vote, 20 Republican Senators would not vote for the tax cut.''

To say we are going to balance the budget, and then start with a tax cut, is like having a New Year's resolution to diet and start with a great big dessert.

Third, we take the CPI and reduce it by one-half of 1 percent. At the Finance Committee meeting, Senator DOLE said, in talking about looking at the CPI, ''This is something we should have addressed years ago.'' This is still below what the special economist said should be a drop of between 0.7 to 2 points.

Third, we help the less fortunate in our society. Instead of a savings of $270 billion in Medicare, it is $168 billion. Instead of $187 billion in Medicaid, it is $83 billion. Welfare reform—there is $36 billion more for poor people. Discretionary spending, $79 billion more. Veterans programs are assisted. Agriculture programs are assisted. Student loan programs are helped.

This is a balanced program that makes sense and it balances the budget in a prudent way. I hope we can move in this direction.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. I yield 2 minutes to the Senator from North Dakota, Mr. President.

Mr. CONRAD. I thank the Senator from Illinois. This is an amendment for those who disagree with cutting taxes by $245 billion at the very time we are adding $1.8 trillion to the national debt. This is the amendment for those who are concerned that the Medicare and Medicaid cuts are too severe. This is the amendment for those who oppose cuts in education. This is the amendment for those who want welfare to be work-oriented but protect the children. This is the amendment for those who are concerned about the raid on rural America contained in the underlying bill. This is the amendment for those who recognize that CPI overstates the cost of living. The advisory commission to the Finance Committee said it is overstated by .7 to 2.0. That means adding $600 billion to the national debt over the next 7 years.

Mr. President, I hope my colleagues will support this amendment to fairly balance the budget.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. How much time do I have on the amendment, and how much time do they have?

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes; the minority has 1 minute 50 seconds.

Mr. DOMENICI. Mr. President, let me remind Senators of a couple of things. First of all, the Consumer Price Index provides $115 billion of the money needed to balance their budget. In addition, Medicare is getting cut, or hit, or reformed $168 billion. So we are doing both Medicare and CPI. And then, third, and equally as important, the fiscal dividend that is not supposed to be there until you are in balance—that is how we thought it worked, that you get to balance and you get a fiscal dividend—they take the $170 billion fiscal dividend, before in balance, and put it in their balanced budget.

The PRESIDING OFFICER. The Chair cannot hear the Senator.

Mr. DOMENICI. I am pleased that the Chair is concerned, and I thank him. I want to close by saying that I really do not believe this is the kind of budget we want to adopt here tonight. I think if anybody had a real chance to look through it and go into detail, they would agree with the Senator from New Mexico.

I want to go through the three. You get $115 billion by changing the CPI by .5. I was wondering a little while ago—my friends on the Democrat side were concerned because we had not given them our amendments. Most are one page. We just got this one now, in case anybody wonders, which is all right. I am not complaining. It is just that we do not know very much about it. These few little facts are about the best I can do.

Mr. FORD. Now you know how we feel when we have 2,000 pages.

Mr. DOMENICI. I think you got those pursuant to the rules. They were before you all. This was presented right here, tonight, to us. I do not want to take any more time. I will yield the remainder of my time.

Mr. SIMON. Mr. President, I yield 50 seconds to my colleague from Virginia.

Mr. ROBB. Mr. President, I thank my colleague and friend from Illinois. I will not make a full statement at this time. I will put one in the RECORD. Suffice it to say—I say this to my good friends on the other side of the aisle—this is where we ought to be going. This is a tough, fair, principled budget that reflects the kind of distribution that we ought to be looking toward if we are going to come up with a reasonable solution to the fiscal challenges that are facing the country today, and it does it without a $245 billion tax cut that we simply cannot afford and should not be giving under the circumstances.

I am pleased to join my fiscally responsible colleagues in offering an alternative that I think meets the test that this country is looking for us to meet.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SIMON. I yield myself the remainder of the time.

In terms of the fiscal dividends that Senator DOMENICI is talking about, we balance the budget also, so we have the same savings on interest.

In terms of the size of this—and I recognize this is not going to pass tonight—but I think this may be the basis for a compromise that we may move toward. I think there is a lot of common sense in this.

In terms of the CPI, it is less than was recommended to the Finance Committee by the economic experts, and what it means for a person who is in the median on Social Security getting $770, it would be a reduction of $3.85 for which that person gets more help on Medicare and Medicaid.

I think seniors would welcome this proposal.

Mr. DOMENICI. I yielded back my time, but I ask unanimous consent to retrieve 1 minute of it to yield to Senator NICKLES.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I thank my colleague from New Mexico. I join him in opposition to this amendment.

Although I compliment the sponsors of the amendment for saying we should use an accurate CPI, they do not go as far as that that was proposed by a group of economists that said we should use from 0.7 percent even and maybe above 1 percent. Whatever the percent is, it should be accurate, and most estimates are that 0.5 percent, which would save something like $115 billion, is on the low side. So I compliment them for doing that.

I rise in opposition to their proposal because they want to spend $245 billion more so we do not tax more. I would like to give taxpayers a break for $245 billion and reduce spending to pay for it. That is the difference between the two.

I compliment them for a very significant element of this package and hope that ultimately we will use accurate CPI reflection in all of our cost-of-living adjustments.

Mr. DOLE. Mr. President, as I understand, all the amendments have been offered that will be offered this evening in tier 2. The committee amendment will be offered tomorrow morning.

I now ask unanimous consent that the votes scheduled to begin now be limited to 8 minutes after the first rollcall vote, with 1 minute for explanation between each vote to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Let me persuade my colleagues we will have about 18 votes here. If we all stay in the Chamber we will probably save 20 or 30 minutes. There are not many places to go at 9:30 at night around here. They can watch the ball game right off the floor. Hopefully, we will accommodate one another by being here.

The first vote will be the normal 15 minutes plus 5 to give people time to come back from wherever they want to come back from.

The PRESIDING OFFICER. Does the request include 1 minute before the first vote?

Mr. DOLE. One minute before each vote equally divided in the usual form.

We will start tomorrow morning at 9 o'clock, and we hope to have 7½-minute votes after the first vote, so we ask all Senators to remain in the Chamber—not overnight but be back here.

Mr. DOMENICI. Mr. President, I wonder if Senator EXON would join in requesting from his side what I request for our side.

We still have a third tier, which are all the amendments that will not get debated. We would like to use the evening now while we are here voting to have you get as many together so we know, maybe tonight or early morning, how many you have. And we have some. Perhaps we can give the Senators an idea, then, by midmorning on how many there are.

Mr. EXON. I advise my colleague we have been working on that. We were talking about it a few minutes ago in the Cloakroom. We do not have a definitive number. We have made major reductions generally in the area that we have been indicating to you in our series of negotiations about where we think we will end up. I do not know that I can give a specific number tonight. I will explore that.

The PRESIDING OFFICER. The first amendment is numbered 2964 by Senator MCCAIN and others; 1 minute, equally divided. Who yields time?

Mr. DOLE. I yield back the time.

The PRESIDING OFFICER. Is all time yielded back on this amendment? Does the Senator from Nebraska yield back the 30 seconds?

Mr. EXON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. NICKLES. I ask for the yeas and nays.

The PRESIDING OFFICER. They have been ordered.

Mr. DOLE. Did we order the yeas and nays on all the amendments?

The PRESIDING OFFICER. Is there an objection for all the yeas and nays to be ordered at one time?

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered on all amendments that have been debated so far.

VOTE ON AMENDMENT NO. 2964

The PRESIDING OFFICER. The clerk will call the roll on amendment No. 2964.

The assistant legislative clerk called the roll. The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 507 Leg.]

YEAS—99

Abraham	Coverdell	Harkin
Akaka	Craig	Hatch
Ashcroft	D'Amato	Hatfield
Baucus	Daschle	Heflin
Bennett	DeWine	Helms
Biden	Dodd	Hollings
Bingaman	Dole	Hutchison
Bond	Domenici	Inhofe
Boxer	Dorgan	Inouye
Bradley	Exon	Jeffords
Breaux	Faircloth	Johnston
Brown	Feingold	Kassebaum
Bryan	Feinstein	Kempthorne
Bumpers	Ford	Kennedy
Burns	Frist	Kerrey
Byrd	Glenn	Kerry
Campbell	Gorton	Kohl
Chafee	Graham	Kyl
Coats	Gramm	Lautenberg
Cochran	Grams	Leahy
Cohen	Grassley	Levin
Conrad	Gregg	Lieberman
Lott	Nunn	Simon
Lugar	Pell	Simpson
Mack	Pressler	Smith
McCain	Pryor	Snowe
McConnell	Reid	Specter
Mikulski	Robb	Stevens
Moseley-Braun	Rockefeller	Thomas
Moynihan	Roth	Thompson
Murkowski	Santorum	Thurmond
Murray	Sarbanes	Warner
Nickles	Shelby	Wellstone

The amendment (No. 2964) was agreed to.

AMENDMENT NO. 2965

The PRESIDING OFFICER. Ladies and gentlemen, the next amendment is amendment 2965 by Mr. HELMS, 1 minute equally divided.

Mr. ROCKEFELLER. May we have order.

The PRESIDING OFFICER. There will be 1 minute equally divided on this amendment prior to the vote.

The Chair recognizes the Senator from North Carolina.

This is going to be a long night unless we can get quiet after these votes.

Mr. HELMS. Mr. President, I think this is one of few times when both sides are in favor of an amendment. It is to protect the right of senior citizens to choose their own doctors if they wish.

I think the distinguished manager of the bill, Mr. DOMENICI, has a clarification.

Mr. DOMENICI. I would like to say for the Republicans, there is a technical error on the explanation. This amendment has been modified so that the language in our Whip Notice—it says, ''if you don't comply, they are not eligible for Medicare reimbursement''—is out of this. It is not in this amendment. I think the amendment deserves to be adopted.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, this amendment pretends that the Republican budget's destructive plan for Medicare will preserve the senior citizen's ability to get their care through fee for service and continue to see his or her own doctor.

Now, it is fine to pretend, so vote for the amendment. It is all right. It is not going to do any harm. Make no mistake. There is no guarantee of anything in the Helms amendment for seniors and their future ability to see their own doctor.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered on every amendment.

Mr. DOLE. Mr. President, this will be an 8-minute vote.

The PRESIDING OFFICER. This is an 8-minute vote.

Mr. DOLE. This is the test. If we all stay here, we may finish.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 508 Leg.]

YEAS—79

Abraham	Frist	McConnell
Akaka	Glenn	Mikulski
Baucus	Graham	Moseley-Braun
Biden	Gramm	Moynihan
Boxer	Grassley	Murkowski
Bradley	Harkin	Murray
Breaux	Hatch	Nickles
Brown	Heflin	Nunn
Bumpers	Helms	Pell
Burns	Hollings	Pressler
Byrd	Hutchison	Pryor
Campbell	Inhofe	Robb
Cochran	Inouye	Rockefeller
Cohen	Johnston	Roth
Conrad	Kassebaum	Santorum
Coverdell	Kempthorne	Sarbanes
Craig	Kennedy	Shelby
D'Amato	Kerrey	Simon
DeWine	Kerry	Smith
Dole	Kohl	Snowe
Domenici	Kyl	Specter
Dorgan	Lautenberg	Stevens
Exon	Leahy	Thurmond
Faircloth	Levin	Warner
Feingold	Lott	Wellstone
Feinstein	Lugar	
Ford	McCain	

NAYS—20

Ashcroft	Daschle	Lieberman
Bennett	Dodd	Mack
Bingaman	Gorton	Reid
Bond	Grams	Simpson
Bryan	Gregg	Thomas
Chafee	Hatfield	Thompson
Coats	Jeffords	

So the amendment (No. 2965) was agreed to.

Mr. HELMS. I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2969

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 2969 offered by the Senator from Colorado [Mr. BROWN]. The yeas and nays are ordered.

There will be 1 minute equally divided on the question.

Who yields time?

Mr. DOLE. The time is running.

The PRESIDING OFFICER. Time is running. Who wants to claim the 30 seconds on each side?

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado [Mr. BROWN] is recognized for 26 seconds.

Mr. BROWN. The measure that is before the Senate takes a 1993 limitation on business' ability to deduct salaries in excess of $1 million and applies it, not to just publicly traded corporations to which it applies to now, it applies it to nonpublicly traded organizations and other business. It is a fairness question. It is grandfathered for any existing contracts, but I might say the money that is raised goes to reduce the Social Security earnings penalty.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. I yield back our 30 seconds.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2969.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 509 Leg.]

YEAS—99

Abraham	Feingold	Lott
Akaka	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Gramm	Moynihan
Boxer	Grams	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Cohen	Jeffords	Sarbanes
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simon
Craig	Kempthorne	Simpson
D'Amato	Kennedy	Smith
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	Warner
Faircloth	Lieberman	Wellstone

So, the amendment (No. 2969) was agreed to.

Mr. BROWN. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, let me observe that, out of the three votes, we have had two unanimous votes. Maybe some could be done by voice vote. It would save some time. Otherwise, we are going to stay on the eight-minute schedule, and I urge my colleagues to stay on the premises.

AMENDMENT NO. 2970

The PRESIDING OFFICER. The pending question is amendment No. 2970.

Mr. EXON. I yield 30 seconds to the Senator from Iowa.

Mr. HARKIN. Mr. President, this amendment is the fraud, waste, and abuse amendment. It saves $600 million, by CBO's estimate, more than the underlying amendment. This is a culmination of 5 years of hearings.

All of the things in this amendment were recommended by the Inspector General's office and by GAO. It saves more than $600 million. In sum, all I can tell you is what this does. It says that when the Veterans Administration pays 4 cents for a bandage and Medicare pays 86 cents, something is wrong. Let us pay the same thing as the Veterans Administration. That is what this amendment does.

Mr. DOMENICI. Mr. President, I yield to Senator COHEN.

Mr. COHEN. Mr. President, the antifraud provision in the Finance Committee measure has been the product of over 3 years of effort on my part. I have had to work with Justice, FBI, the White House, providers, consumers, and they support the provision as written.

In addition to that, there is a deletion under my bill which would allow the criminal fines imposed under the violation to go back into the Medicare trust fund. That is deleted under the Senator's amendment.

I urge that we reject this amendment for a variety of reasons but, most of all, because it would make a last-minute change over something that is accepted by virtually everybody.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the pending amendment is not germane to the provisions of the reconciliation bill pursuant to section 305(b)(2). I raise a point of order against the pending amendment.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 510 Leg.]

YEAS—43

Akaka	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Heflin	Nunn
Bryan	Inouye	Pell
Bumpers	Johnston	Pryor
Byrd	Kennedy	Reid
Conrad	Kerrey	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Simon
Exon	Leahy	Wellstone
Feingold	Levin	
Feinstein	Lieberman	

NAYS—56

Abraham	Dole	Kempthorne
Ashcroft	Domenici	Kyl
Baucus	Faircloth	Lott
Bennett	Frist	Lugar
Bond	Gorton	Mack
Bradley	Gramm	McCain
Brown	Grams	McConnell
Burns	Grassley	Murkowski
Campbell	Gregg	Nickles
Chafee	Hatch	Pressler
Coats	Hatfield	Roth
Cochran	Helms	Santorum
Cohen	Hollings	Shelby
Coverdell	Hutchison	Simpson
Craig	Inhofe	Smith
D'Amato	Jeffords	Snowe
DeWine	Kassebaum	Specter
Stevens	Thomas	Thurmond
	Thompson	Warner

The PRESIDING OFFICER. On this vote the ayes are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to waive the Budget Act is rejected. The point of order is well taken and the amendment falls.

AMENDMENT NO. 2971

The PRESIDING OFFICER. The next amendment is amendment No. 2971. There are 30 seconds on each side for debate.

Mr. McCAIN. Mr. President, this amendment removes about $60 billion worth of corporate pork over a period of 7 years. It has bipartisan support.

For the information of my colleagues, it does not include the auction of public safety spectrum. Obviously, that would be exempt from the auction of spectrum.

Mr. President, I understand the point of order may be lodged against this amendment. It makes no sense to lodge a point of order against an amendment that would reduce spending, which is what this legislation is supposed to be all about.

Mr. EXON. The pending amendment would add two new matters to the bill and violate the prohibition of nongermane amendments. I raise a point of order that the pending amendment is therefore not germane and thus violates section 305(b)(2) of the Congressional Budget Act of 1974.

I yield back the remainder of my time. I ask for the yeas and nays.

Mr. McCAIN. I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. The question is on the motion.

Is there a sufficient second?

There is a sufficient second.

The question is on the motion to waive the Budget Act.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote? The yeas and nays resulted—yeas 25, nays 74, as follows:

[Rollcall Vote No. 511 Leg.]

YEAS—25

Abraham	Gramm	Lautenberg
Biden	Grams	McCain
Bradley	Grassley	Moynihan
Brown	Gregg	Pell
Coats	Hutchison	Robb
Cohen	Jeffords	Roth
Dole	Kennedy	Thompson
Faircloth	Kerry	
Feingold	Kohl	

NAYS—74

Akaka	Chafee	Ford
Ashcroft	Cochran	Frist
Baucus	Conrad	Glenn
Bennett	Coverdell	Gorton
Bingaman	Craig	Graham
Bond	D'Amato	Harkin
Boxer	Daschle	Hatch
Breaux	DeWine	Hatfield
Bryan	Dodd	Heflin
Bumpers	Domenici	Helms
Burns	Dorgan	Hollings
Byrd	Exon	Inhofe
Campbell	Feinstein	Inouye

Johnston
Kassebaum
Kempthorne
Kerrey
Kyl
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Pressler
Pryor
Reid
Rockefeller
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 25, the nays are 74. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is well taken and the amendment falls.

AMENDMENT NO. 2972

The PRESIDING OFFICER. The question occurs on amendment 2972, offered by the Senator from West Virginia.

Mr. EXON. I yield 30 seconds to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

The Senate will please come to order.

The Senator from West Virginia.

Mr. BYRD. Mr. President, my amendment restores $712 million rescinded by the bill in 48 States in highway funds.

The PRESIDING OFFICER. The Senator will suspend. Senators will please come to order.

Mr. BYRD. Senators will find on their desks a detailed table which shows the reductions that were made in each of the 48 States.

I restore this money by closing a corporate loophole. The corporate loophole is closed by the House by a phaseout in 4 years; closed by the bill by a phaseout in 5 years. I say, let us go with the House, phase out the loophole in 4 years and restore $712 million in highway funds to the 48 States.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, for those who thought the highway demonstration programs were good programs and all the projects were good projects, obviously you ought to vote for this.

They were never spread equally across the land. They had very significant preferential treatment, depending upon a lot of things. So I think the committee that decided to do this acted appropriately, especially since they applied the savings to a very good cause.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 46, nays 53, as follows:

[Rollcall Vote No. 512 Leg.]

YEAS—46

Abraham
Akaka
Baucus
Biden
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kohl
Lautenberg
Leahy
Levin
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Stevens
Wellstone

NAYS—53

Ashcroft
Bennett
Bingaman
Bond
Bradley
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hollings
Hutchison
Inhofe
Kassebaum
Kempthorne
Kerry
Kyl
Lieberman
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Nunn
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Thomas
Thompson
Thurmond
Warner

So, the amendment (No. 2972) was rejected.

Mr. DOMENICI. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2973

The PRESIDING OFFICER. The question occurs on amendment No. 2973 offered by the Senator from Rhode Island, Senator CHAFEE.

The Senator from Rhode Island is recognized for 30 seconds.

Mr. CHAFEE. Mr. President, I am pleased to be joined in this amendment by Senators CONRAD and FRIST. The reconciliation bill says States must cover the disabled but does not define who is disabled. This amendment adopts the same definition of ''disabled'' as we used in the welfare bill which we passed——

Mr. HARKIN. Point of order. The Senate is not in order.

The PRESIDING OFFICER. The Senator is correct.

The Senate will please come to order. Those Senators in front of the Chair, please take your conversations to the cloakroom.

Mr. CHAFEE. Do I start my 30 seconds over?

The PRESIDING OFFICER. The Senator has 16 seconds remaining.

Mr. CHAFEE. Well, I will start. This amendment adopts the same definition of ''disabled'' as we used in the welfare bill which we passed 87–12. It does not include substance abuses. That is a mistake in the little chit that was circulated here. These individuals are at 75 percent of the poverty level or less. They cannot get health insurance. This safety net is essential to them if they are going to stay in the community.

The PRESIDING OFFICER. Time has expired.

Mr. EXON. I yield 30 seconds to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, two excellent Senators are offering this amendment and trying to protect the basic Medicaid coverage for the very poorest, very oldest and disabled Americans.

I hope everybody will vote for it. But, again, you cannot turn a frog into a prince. The underlying bill would require 200 such amendments to make it agreeable. I hope people will support this.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. Do we not get to speak against it, since both sides were for it? There was no opposition.

Mr. DOLE. I would ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. DOLE. This is another infringement on the Governors. We are going to turn over these programs, make them entitlements, and give them block grants, and make it impossible for Democrats or Republicans to administer the program.

We had this argument. We discussed it long and hard with the Senator from Rhode Island. I hope we would defeat this amendment. If you do not have any faith in your Governor, then vote the other way.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to amendment No. 2973.

The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 513 Leg.]

YEAS—60

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Graham
Gregg
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Simpson
Snowe
Specter
Stevens
Wellstone

NAYS—39

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
Dole
Faircloth
Gorton
Gramm
Grams
Grassley
Hatch
Helms
Hutchison
Inhofe
Kempthorne
Kyl

Lott	Nickles	Smith
Lugar	Pressler	Thomas
Mack	Roth	Thompson
McCain	Santorum	Thurmond
Murkowski	Shelby	Warner

So, the amendment (No. 2973) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2963

The PRESIDING OFFICER. The question recurs on amendment No. 2963 offered by the Senator from Louisiana.

A motion to table is pending on which the yeas and nays have been ordered. Who yields time?

Mr. EXON. I yield 30 seconds to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 30 seconds.

Mr. BREAUX. Mr. President, I say to my colleagues, I urge my Republican colleagues to vote for this tonight, because NEWT GINGRICH is going to do it in conference. You all are going to be on record of voting against it. They are going to fix it in conference.

I suggest to vote against tabling, because you can add 44 percent more children who would benefit from the child tax credit. Without this amendment, you are cutting off 31 million youngsters who will not benefit from the tax credit. It is that simple. Guess what? They are going to do it in conference.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield my time to Senator NICKLES.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge my colleagues to vote against this amendment. This amendment would build another entitlement program, another brandnew entitlement program into the Tax Code. According to the Joint Tax Committee, the Breaux amendment would increase outlays by $37 billion over 7 years. I urge my colleagues to vote no.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Breaux amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 514 Leg.]

YEAS—53

Abraham	Cochran	Frist
Ashcroft	Cohen	Gorton
Bennett	Coverdell	Gramm
Bond	Craig	Grams
Brown	D'Amato	Grassley
Burns	DeWine	Gregg
Campbell	Dole	Hatch
Chafee	Domenici	Hatfield
Coats	Faircloth	Helms
Hutchison	McCain	Smith
Inhofe	McConnell	Snowe
Jeffords	Murkowski	Specter
Kassebaum	Nickles	Stevens
Kempthorne	Pressler	Thomas
Kyl	Roth	Thompson
Lott	Santorum	Thurmond
Lugar	Shelby	Warner
Mack	Simpson	

NAYS—46

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	
Feingold	Levin	

So the motion to lay on the table the amendment (No. 2963) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2975, AS MODIFIED

The PRESIDING OFFICER. The pending business is amendment No. 2975 offered by the Senator from Missouri [Mr. BOND].

The Senator from Missouri has 30 seconds.

Mr. BOND. Mr. President, pursuant to a unanimous consent agreement when I offered the amendment, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2975), as modified, is as follows:

On page 1620 after line 1 insert:

SUBCHAPTER A—HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

SEC. 12201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—Section 162(1) is amended—

(1) by striking ''30 percent'' in paragraph (1) and inserting ''55 percent''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BOND. Mr. President, when I raised the question of deductibility of health insurance, I said we were looking for another offset. I have been able to work with the managers and the majority leader. They have enabled us to eliminate the offsets which would have taken out the long-term care insurance, and we are able to raise the deductibility for self-employed individuals and small business people from 30 to 55 percent. I believe that this is something we can work with in conference.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. They have already been ordered.

Mr. PRYOR. Mr. President, I am the cosponsor on this side of the Bond amendment. I strongly support this amendment. We hoped, originally, that we would be able to permit the self-employed to deduct 100 percent of their insurance premiums, and this looks like they are going to take about 55 percent. This is the best we could do, but it is better than in the past.

Mr. WELLSTONE. Can I ask what the offset is?

Mr. DOMENICI. Mr. President, the time has expired.

Mr. DOLE. We did not need an offset. We found another area where they overestimated or underestimated, or whatever it is.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I wonder, will the Senator withdraw the yeas and nays?

Mr. BOND. We would like the yeas and nays since everybody is here.

Mr. DOMENICI. OK.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 515 Leg.]

YEAS—99

Abraham	Feingold	Lott
Akaka	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Gramm	Moynihan
Boxer	Grams	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Cohen	Jeffords	Sarbanes
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simon
Craig	Kempthorne	Simpson
D'Amato	Kennedy	Smith
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	Warner
Faircloth	Lieberman	Wellstone

So the amendment (No. 2975), as modified, was agreed to.

BIDEN MOTION TO COMMIT

The PRESIDING OFFICER. The question is on agreeing to the motion to commit with instructions offered by the Senator from Delaware.

The Senator from Delaware is recognized for 30 seconds.

Mr. BIDEN. Mr. President, one thing all Americans say they care about is to get a college education for their children.

This amendment will allow—it costs $35 billion, roughly $5 billion a year, and it would allow a $10,000 per year deduction—maximum deduction—for the cost of college tuition for couples making up to $120,000, or individuals up to $90,000.

This is a genuine benefit for the middle class, and we do exactly what the Republican bill does. The way in which we get the money is restrict the growth of tax expenditures.

Mr. DOMENICI. Mr. President, has there been a motion to table?

The PRESIDING OFFICER. No.

Mr. DOMENICI. I yield back any time I have. I move to table the Biden amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Yeas and nays they were ordered.

The PRESIDING OFFICER. The question is on the motion to table.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 55, nays 44, as follows:

[Rollcall Vote No. 516 Leg.]

YEAS—55

Abraham	Gorton	McConnell
Ashcroft	Gramm	Mikulski
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Pressler
Burns	Hatch	Robb
Campbell	Hatfield	Roth
Chafee	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Kassebaum	Stevens
DeWine	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner
Feingold	Mack	
Frist	McCain	

NAYS—44

Akaka	Exon	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Rockefeller
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Specter
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	

So, the motion to lay on the table the motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2976

The PRESIDING OFFICER. The question occurs on amendment No. 2976 offered by the Senator from Maine, Ms. SNOWE, on which the yeas and nays have been ordered.

The Senator from Maine.

Ms. SNOWE. I thank the Chair.

First of all, I would like to say that this amendment is cosponsored by Senators D'AMATO, SHELBY, BIDEN, MACK, MURKOWSKI, HUTCHISON, GRAMM, COHEN, and JEFFORDS.

This amendment is a sense of the Senate that would provide coverage under Medicare for breast and prostate cancer.

When changes were made in Medicare back in 1993, there was an inadvertent omission whereby oral drug treatment was not covered under Medicare for breast and prostate cancer. It is a cost-saving measure.

Mr. President, I will ask unanimous consent to vitiate the yeas and nays and ask for a voice vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The Senator from Nebraska.

Mr. EXON. I yield my time back.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2976) was agreed to.

AMENDMENT NO. 2977

The PRESIDING OFFICER. The question occurs on amendment No. 2977 offered by the Senator from North Dakota.

The Senator from North Dakota is recognized for 30 seconds.

The Senator will suspend. The Senate will come to order.

Mr. EXON. Mr. President, I yield 30 seconds to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, it is an extraordinarily simple amendment. We have in the Tax Code of the United States an incentive, a tax break, a tax deduction for somebody who closes their plant in this country and moves the jobs overseas to a tax haven, produces the same product with foreign workers, then ships the product back to the United States.

This simply gets rid of the tax break for companies that move the jobs overseas. If we cannot close this tax loophole, we cannot close any tax loophole. I would hope we will have an affirmative vote on this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Mr. President, I yield back our time.

This amendment contains extraneous material and is not germane and therefore subject to a point of order under the Budget Act.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. This will be the last vote this evening, and we will start voting tomorrow morning at 9:15. The first vote will be on the amendment by——

Mr. FORD. Mr. President, may we have order, please.

The PRESIDING OFFICER. The Senator from Kentucky is correct. The Senate will please come to order.

This is the last vote. Senators will please listen.

Mr. DOLE. Senator GRAMM of Texas. The first vote will come on his amendment, and the first vote will be 20 minutes in length. Then we will go back to our 8 minutes after the first vote. We have had 20 votes today. I wish to thank my colleagues.

Mr. FORD. Mr. President, will the Senator yield? Are we going tomorrow by the schedule of amendments offered, and then we go down that line and then we are on, will be on the last ones?

Mr. DOLE. Right. We are going to go down—that is right, yes.

Mr. FORD. We go as introduced.

Mr. DOLE. Then we go to tier three.

Mr. FORD. I thank the Senator.

Mr. DOLE. Then tier four and tier five.

Mr. FORD. Ten.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the budget act. The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 517 Leg.]

YEAS—47

Akaka	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Heflin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Johnston	Robb
Cohen	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Snowe
Dorgan	Lautenberg	Stevens
Exon	Leahy	Wellstone
Feingold	Levin	

NAYS—52

Abraham	Dole	Kassebaum
Ashcroft	Domenici	Kempthorne
Baucus	Faircloth	Kyl
Bennett	Frist	Lott
Bond	Gorton	Lugar
Brown	Gramm	Mack
Burns	Grams	McCain
Campbell	Grassley	McConnell
Chafee	Gregg	Moynihan
Coats	Hatch	Murkowski
Cochran	Hatfield	Nickles
Coverdell	Helms	Pressler
Craig	Hutchison	Roth
D'Amato	Inhofe	Santorum
DeWine	Jeffords	Shelby

Simpson	Thomas	Warner
Smith	Thompson	
Specter	Thurmond	

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The amendment falls.

Mr. GRAMS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LIST OF EXTRANEOUS MATTER (THE BYRD RULE)

Mr. DOMENICI. Mr. President, pursuant to section 313(c) of the Budget Act, I submit a list of material considered to be extraneous under subsections 313 (b)(1)(A), (b)(1)(B), and (b)(1)(E) on behalf of the Committee on the Budget.

Section 313(c) of the Budget Act states:

The inclusion or the exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

In addition, this list does not represent the Budget Committee's position on the program or policies represented in these provisions or a waiver of a point of order against these provisions. The Budget Act requires the committee to simply identify potential violations under three components of the Byrd rule and the committee has complied with the law.

That a provision appears on this list does not mean it will automatically be deleted from the bill. A Senator must raise a point of order against the provision and the Presiding Officer must sustain the point of order. The Byrd rule may be waived in the Senate by an affirmative vote of 60 Senators.

This list is a compilation of items identified by both the majority and minority staff of the Senate Budget Committee. The staffs did not agree on every item, but the differences were small when one considers the controversial and comprehensive nature of this bill. I want to thank the staff. The Byrd rule has evolved over the past 10 years and identifying those provisions that violate the rule is a very difficult exercise.

Mr. President, I ask unanimous consent that the list be printed in the RECORD.

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

BALANCED BUDGET RECONCILIATION ACT OF 1995—POSSIBLE EXTRANEOUS PROVISIONS; SENATE BILL

(Prepared by the Republican Staff of the U.S. Senate Budget Committee, October 1995)

EXTRANEOUS PROVISIONS—SENATE BILL

Provision	Comments/Violation
	AGRICULTURE, NUTRITION, AND FORESTRY
Sec. 1113(a)(4), 1113(c), and (e) (2)	Clarification on peanut pool and sale, lease, or transfer of farm poundage quota for 1991 through 2000 crops of peanuts and allows non-quota peanuts to become available if market price exceeds 120 percent of loan rate; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1115	Savings adjustment; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1116	Sense of the Senate regarding tax provisions relating to ethanol; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	ARMED SERVICES
	Naval Petroleum Reserve Sale (Elk Hills)
Sec. 2; Sec. 7421a(f)	Requirements on Elk Hills production until sale is completed; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(j)	Requirement that a sale cannot take place unless DOE provides a notice to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(k)	Expedited procedures for Congressional consideration of a resolution of approval of the sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(l)	Notice to Congress of noncompliance with deadlines; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(m)	Requirement that GAO monitor DOE sale and report to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Naval Oil Shale Reserve Sale
Sec. 2; Sec. 7421b(b)	Application of Sec. 7421(h), (j), (k), (l), & (m) to the Oil Shale Reserve sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421b(b)(C)	Expedited procedures for consideration of joint resolution of approval of the sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 3002	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This section would require the Secretary of Treasury to report to the Congress on the feasibility of a private deposit insurance system.
Sec. 3001(d)	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This subsection outlines a merger of the two deposit insurance funds for banks (BIF) and thrifts (SAIF), but item (4) of this subsection makes implementation of all of subsection (d) contingent on a future act of Congress (which will be necessary to eliminate all thrift charters). Therefore, the entire subsection 3001(d) will have no effect when reconciliation is enacted.
	COMMERCE, SCIENCE AND TRANSPORTATION
Sec. 4001(a)(C), beginning on p. 207, line 1 with ''unless'' through ''1998'' on line 23.	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section 4001 directs the FCC to allocate spectrum to applicants by auction spectrum, but exempts certain parts of the spectrum from being sold at auction. Section 4001(a)(C) lists as one of the exemptions the spectrum to be used for advanced/digital television, with a qualification. That is, the FCC can't auction spectrum for digital TV ''unless'' the FCC submits within six months a new proposal for allocating this spectrum by auction and the Congress ''takes action to approve the plan'' (i.e. enacts a later law with the President's signature). Because the prohibition on auctioning spectrum for digital TV stands on its own and is unaffected by the possibility that Congress could always come back later and change the law, the language telling the FCC to do a new plan that would have to be approved by Congress has no impact on the receipts yielded by the auctions that are authorized in this bill, and therefore that language is extraneous.
Sec. 4002	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This section would amend a schedule of regulatory fees charged by the FCC to broadcasters. These fees were established by OBRA '93 as permanent offsetting collections to be ''credited to the account providing appropriations'' to the FCC. Two months later, the Commerce-Justice-State appropriations bill for 1994 amended OBRA '93 by saying that these fees ''shall be collected only if, and only in the total amounts, required in Appropriations Acts.'' Therefore, if there is no appropriations action, then these fees cannot be collected. Since future collection of the fees is contingent on future action by the Congress, changing the schedule of fees in this reconciliation bill has no budgetary effect, so the provision is extraneous.
Sec. 4021	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section limits the fee the Coast Guard can charge for inspection of small vessels. Provision does not sunset and causes outlays beyond the years in which savings are achieved through spectrum auctions.
Sec. 4022(a) Use of Interest for Oil Spill Recovery Institute.	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section provides for new direct spending by allowing interest in Oil Spill Liability trust fund attributed to the Oil Spill Recovery Institute (OSRI) be used by the Institute. Provision may or may not sunset, due to interaction with next provision, dealing with Section 1012 in Alaska. Provision will cause outlays beyond the years in which savings are achieved through spectrum auctions.
Sec. 4022(a) Use of Section 1012 in Alaska	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section provides for new direct spending beginning eleven years after enactment of the 1995 Coast Guard authorization bill by mandating principal attributed to the Oil Spill Recovery Institute (OSRI) in the Oil Spill Liability trust fund be used for oil spill liability and compensation activities in Alaska.
Sec. 4033	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section provides change in current law to the Local Rail Freight Assistance program allowing for disaster assistance for railroads.
Sec. 4034	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section provides for additional eligible state activities under the Local Rail Freight Assistance program.
	ENERGY AND NATURAL RESOURCES
	Subtitle A—United States Enrichment Corporation
Sec. 5002	Enrichment Corporation statement of purpose; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5004(d)(2) & (3)	Enrichment Corporation amendments dealing with the scoring of the proceeds from the sale of the corporation; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5013(a)(1)(B)	Requirement that DOE accept low level nuclear waste from any operator of an enrichment facility; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5013(c)	Waiver of liability for State or Interstate Compact's requirement to accept low level nuclear wate from any enrichment facility; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle C—Arctic Coastal Plain Leasing and Revenue Act
Sec. 5202	Purpose and policy; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5207(d) second sentence	Special Areas reporting requirement to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Portion of Sec. 5215(b)	Reporting requirements (beginning with line 12 on page 48 through line 2 on page 49); Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle D—Park Entrance Fees
Sec. 5300(a)(3)	Authorization of appropriations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5300(a)(10)	Report to Congress on fee collections; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5301	Authorizes Secretary to enter into challenge cost-share agreements; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5302	Cost recovery for damage to National Park resources; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5305(b)(2) second sentence	Reporting requirement to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle E—Water Projects
Sec. 5410 second sentence of subsection (2)	Hetch Hetchy dam authorizations for Yosemite operations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle F—Oil and Gas Royalties
5509	Royalty in Kind; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
5510	Royalty Simplification Audit and Reporting Requirements; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
5512	Delegation to States; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle H—Mining
5709	Uses and Objectives of Mine Reclamation Fund; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle K—Radio and Television Communication Site Fees
Sec. 5920	CBO scores no impact from communicatoin fees; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.

EXTRANEOUS PROVISIONS—SENATE BILL—Continued

Provision	Comments/Violation
	ENVIRONMENT AND PUBLIC WORKS
Sec. 6003(a)	Findings section regarding highway minimum allocation program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—MEDICARE
	Draft from October 23, 1995 Committee has not met its 1 or 5 year instruction.
	Medicare Choice
Sec. 1895A (c) (2) (B)	''the Secretary shall submit to the Congress recommendations on expanding the definition of 'medicare choice eligible individual' '' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895A (b) (1) (B) (iii)	MSAs—costs $$ relative to the savings of Medicare Choice. Separable. Probably a violation. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 1895M (d) (3)	''The Secretary shall conduct an analysis of the measurable input cost differences across payment areas''and ''The Secretary shall also determine the degree to which medicare beneficiaries have access''and ''the Secretary shall submit a report'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895M (f)	Demonstration project on market-based reimbursement and competitive pricing. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 1895R (c)	Report on the temporary certification of coordinated care plans. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895R (f)	Partial capitation demonstration Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
	Part A provisions
Sec. 7012 (c)	Development [of] National Prospective Payment Rates for Current Non-PPS Hospitals Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7032	Incentive payments to SNFs. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7037	Report by Prospective Payment Assessment Commission. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Part B provisions
Sec. 7043 (c)	Study & report of physician fee schedule. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7044 (c)	Upgraded Durable Medical Equipment. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7050	Physician Supervision of Nurse Anesthetists. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Part A & B provisions
Sec. 7056	Treatment of assisted suicide. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7057 (a)	Nothing in this Act shall be construed to change the status under title XVIII of ... (Indian Health Centers). Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7057 (b)	Conforming amendment to change the name/organization for Christian Scientists. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7061 (a)	(C) Share of Savings—Bonus payments to home health agencies. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7061 (a)	(f) Report by Prospective Payment Assessment Commission. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Rural Areas
Sec. 7071	Medicare-dependent small rural hospitals: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7072	Medicare rural hospital flexibility: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7073	Rural emergency access care hospitals: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7074	Payments to physicians in shortage areas: increases OL by $0.4B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7075	Direct fee schedule payments to physician assistants and nurse practitioners: increases OL by $0.3B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7076	Demonstration projects to promote telemedicine. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7077	Prospective Payment Assessment Commission report on updates for urban Medicare-dependent hospitals. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Health Care Fraud & Abuse
Sec. 7103	Health Care Fraud and Abuse Guidelines. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7112	Minimum exclusion period for individuals. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7116	Clarification of and additions to exceptions to anti-kickback penalties. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7121	Establishment of the health care fraud and abuse data collection program. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7143	Injunctive relief relating to federal health care offenses. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7144	Grand jury disclosure. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7148	Laundering of monetary instruments. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7149	Authorized investigative demand procedures. Is this a necessary term or condition? Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Other provisions for trust fund solvency
Sec. 7173	Transfers of certain part B savings to HI trust fund. (i.e., medicare lockbox) Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—MEDICAID
	Draft from October 23, 1995 Committee has not met its 1 or 5 year instruction.
	The provisions listed here as Sec. 2102 through Sec. 2137 are new sections added by Sec. 7191(a) of the reconciliation bill.
Sec. 2102 (b)(7)	Plan must include ''a description of the average amount paid per discharge'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2105 (b)	Each State with a medicaid plan shall establish and maintain an advisory committee (which shall aid in) the development, revision, and monitoring the performance of the medicaid plan'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2106	Secretary shall create a Medicaid Task Force. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (c)	''The medicaid plan shall provide medical assistance for immunizations.'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (d)	''The medicaid plan shall provide prepregnancy planning services and supplies'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (e)	''A medicaid plan may not deny or exclude coverage on the basis of a pre-existing condition'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (f)	''A medicaid plan shall not impose treatment limits on mental illness services'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2116	Causes of action Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2117	Spousal impoverishment mandate. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2122 (g)	Super-block grant. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2123 (g), (h)	Limitations on use of funds. ''No payment shall be made to a State under this part for expenditures for items''(g) abortions; (h) assisted suicide. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2137	Nursing home standards. ''Each medicaid plan shall provide for the establishment and maintenance of procedures for nursing facilities which furnish services under the plan.''—mandate Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7192 (a) (1)	''No payment shall be made to a State under this part for medical assistance for medical assistance for covered outpatient drugs unless the manufacturer of the drug'' ''No payment shall be made under this part to a State that requires manufacturer rebates'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7192 (a) (2)	''in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer must'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7194	Authorizes new demonstration project. No appropriation. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7195	CBO Report requiring analysis of effect of block grant on health insurance status. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—NON-HEALTH
Sec 7201: 401	Purpose of Block Grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(2)(C)	3 month notification to State with Indian tribes exercising funding option—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(2)(D) (i) and (ii)	Additional payments for EA where State plan is modified in 1994. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
403(a)(2)(D) (iii)	Directed Scoring Post 2000—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(3), (4)(B)	Supplemental Grant Fund—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
403(b)(1)	Limitation on admin expenditures—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(b)(2)	Authority to treat interstate immigrants under rules of former states —Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(b)(4)	Authority to operate employment placement program with grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(b)(5)	Authority to 30% transfer grant to Child Care Block Grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(f)	Job Placement Performance Set Aside—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(h)	Contingency Grant Fund—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
404(d)	Required Penalties against Individuals—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(e)	Non Displacement in Work Activities—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(f)	Sense of Congress on use of Job training fund—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(g)	Encouragement to Deliver Child Care—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
405	Limitations and Requirements—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(a)	Congressional Findings—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(b)	State option to deny assistance to out of wedlock births to minor children: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(c)	State option to deny assistance for additional births: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(d)(1) and (2)	Requirement that teenage parents live at home or in supervised arrangements: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(d)(3)	Grants to States to provide supervised living—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
406(e)	Requirement that teenage parents attend high school—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(f)	Grant to States that reduce out-of-wedlock birthrate—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
406(g)	Denial of assistance by the State not limited to these requirements—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
409(i)	Report to Congress on Automation—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
409(j)	Report to Congress on participation rates compliance—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
410	Research, Evaluations, State Rankings—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
410(h)	Direct Spending for additional evaluations—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
411	Census Bureau Study—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
412(b)	Hold harmless for cost neutrality from waiver conditions—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
413	State and County Run Demonstrations—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
414(a)	Purpose of provision—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
415	Assistant Secretary for Family Support—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
418	High Performance Bonus Funds—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.

EXTRANEOUS PROVISIONS—SENATE BILL—Continued

Provision	Comments/Violation
419(b)	Additional Child Care Funds—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
420	Single state agency in charge of child care—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
421	Tax Refund offset to states for overpayments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7202	Services Provided by Charitable/Religious, or Private Organizations Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7203	No funds provided to institutions may be used for sectarian worship—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7204	Census data on grandparents as primary caregiver—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7205	Study of Effect of Welfare Reform on Grandparents as Caregivers—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7206	Development of new Social Security Card Authorization—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7207	Funds used by organizations can not support or oppose publicly without disclosure of receipt of funds. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7208	Modification of JOLI program—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7209	Demo project for School Utilization—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7211	Parental Responsibility Contracts—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7212	Federal funds must be spent in accordance with laws and procedures applicable to state revenues—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7216	Secretary of HHS must submit list of technical amendments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7251(e)	Supplemental Funding for Substance Abuse—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7263	Additional requirements for representative payees—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7271	Annual Report to Congress on SSI—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7272	Improvements to Disability Evaluation—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7273	Study of the Disability Determination Process—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7274	Study by GAO on impact of Amendments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7281 to 7287	National Commission on Future of Disability—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7291	Repeal of Maintenance of Effort for State SSI Supplement—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7302	Distribute child support collections to families off welfare first—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7303	Rights to notifications and hearings for those applying for services or a party to these actions—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7344(b)	Extension of enhanced match and new funds matching funds for ADP development—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7345	Training and technical assistance, child support demonstrations—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7346	Changes in the annual report to Congress—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7351	National Child Support Guidelines Commission—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7354	Non-liability for depository institutions providing financial records to child support agencies—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7375(a): 454(C)(b) and (c)	Permissive fees and excess costs of enforcement. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7375(b)	Sense of Senate on how to collect fees—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7377	Sense of Senate on inability of non-custodial parents to pay child support—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7381	Grants to State for Access and Visitation Programs—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7406	Information Reporting, requiring states to provide names to INS—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7411	Reductions in Federal Government Positions—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7412	75% reduction in Federal positions dealing with AFDC—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7413	Sense of Senate that reductions should come from Washington DC office—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7422	Establish National Goals for teenage pregnancy prevention—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7442	Sense of Senate on legislative accountability for unfunded mandates—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7443	Sense of Senate Regarding Enforcement of Statutory Rape—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7444	No prohibition on sanctioning an individual when testing positive for controlled substances—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7445	Abstinence Education set aside—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7481	Sense of Senate on Cost of Living Adjustments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—REVENUES
Sec. 12401(f)	Requires the Secretary of Labor to implement a ''Business Awareness Program'' to educate and encourage business to benefit from the Work Opportunity Tax Credit. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 6039F(d)	Beginning with the phrase, ''notwithstanding any other provision of law...'' requires the Secretary of Treasury to publish in the Federal Register the names of expatriates. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec.12874(c)	Requires the trustees of the Combined Fund (coal industry retirees) to provide documents to contributors if requested. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12705	Requires notices to charitable beneficiaries of charitable remainder trusts that a remainder has been created. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12705	Provides exceptions to the notification requirements (to charitable beneficiaries of the creation of or continuation of charitable remainders) if the Secretary determines it is not necessary for efficient administration of tax law. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12878	Section 2878(e) authorizes the Secretary of the Treasury to prescribe regulations regarding Modified guaranteed contracts. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec.12904(a) (12)(D)Requiring written notice to each employee eligible to participate in certain qualified cash or deferred arrangements and matching contributions. Byrd rule (b)(1)(A): Produces no change in outlays or revenues..	
	GOVERNMENTAL AFFAIRS
	There are no extraneous provisions in this title.
	JUDICIARY
	There are no extraneous provisions in this title.
	LABOR AND HUMAN RESOURCES
Sec. 10002(c)(2)(C)	Indirect costs for direct loans may not exceed 50% of the section 458 funds and they may not be used for promotion the direct loan program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10002(g) p. 1422 lines 5-8	Sense of the Senate statement that the .85 fee to institutions should not be passed on to students. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10003(d) & (e)	Permits the development, and distribution an use of an electronic version of the free federal common application for by guaranty agencies and lenders. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10005 (g)	Permits guarantors to use the funds from the federal payment of the Administrative Cost Allowance to pay for any means of monitoring the enrollment and repayment status of borrowers. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10005 (h)	Guaranty agencies are prohibited from using federal reserves for marketing, advertising, or promotion of the guaranteed loan program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10007(a)(4)(A)(ii)	Provision regarding Sallie Mae and full faith and credit of the United States. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	VETERANS' AFFAIRS
	Veterans' Affairs Committee reconciliation language contains no Byrd Rule Violation

Note: Prepared by SBC majority staff, October 25, 1995 (12:55 pm) and by the Staff of the Committee on the Budget, pursuant to Section 313(c) requiring a list of items considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E). The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

Mr. EXON. Mr. President, the chairman of the Budget Committee was kind enough to discuss with me in advance the list that he just submitted for the RECORD. I, in turn, have shared with him my view of which items in the bill violate the Byrd rule against extraneous matter in reconciliation.

There is a great deal of agreement on these two lists, but some differences persist. To make the RECORD more complete, I submit my list of extraneous provisions and ask unanimous consent that it be printed in the RECORD.

At the close of debate on the bill, after Senators and the Parliamentarian have had a full, fair chance to review these lists, I intend to raise an omnibus point of order under the Byrd rule against a large number of provisions that we have determined to be extraneous. I ask unanimous consent that my list be printed in the RECORD to give Senators the maximum amount of notice as to which provisions are under review for that purpose.

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

LIST OF BYRD RULE VIOLATIONS TO THE BALANCED BUDGET RECONCILIATION ACT OF 1995

(Prepared by the Democratic Staff of the Senate Budget Committee, October 25, 1995)

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
	Title I		
	COMMITTEE: AGRICULTURE		
	Compliance: 1,5 yes; 7 no		
1113(b)(3)(B)	Creates a temporary quota for seed peanuts	313(b)(1)(A)	No budgetary impact.
1111(b)	Terminates Tree Assistance program	313(b)(1)(A)	No budgetary impact.
1113(c)	Provides for Sale, Lease or Transfer of Peanut quotas	313(b)(1)(d)	Savings are incidental.
1113(e)(2)	Makes available additional peanuts if market price exceeds 120% loan rate	313(b)(1)(A)	No budgetary impact.
1115	Savings adjustment to prorate payments to farmers if deficit targets aren't met	313(b)(1)(A)	No budgetary impact.
1116	Sense of the Senate regarding Ethanol	313(b)(1)(A)	No budgetary impact.
1201	Establishes Environmental Incentives Program		Ag title out of compliance—spends money.

BYRD RULE VIOLATIONS, RECONCILIATION 1996

Subtitle and Section	Subject	Budget Act Violation	Explanation
	TITLE: II		
	COMMITTEE: ARMED SERVICES		
	Compliance 1st Year: No; 5-Years: Yes; 7-Years: Yes		
7421a.(a)	Sale Required. The sale of the Elk Hills, CA site in the NPR.	313(b)(1)(E)	There is a loss of offsetting receipts in the outyears that is not offset with the title. Specifically, CBO estimates that selling the NPR will result in a loss of offsetting receipts in years 2003–05 of $1.02 billion. Thus, the provision produces revenue losses in years not covered by the budget resolution.
7421a.(e)	Treatment of State of California. Reservation of 7 percent of the sale of the Elk Hills site in the NPR to settle claims with the State of California.	313(b)(1)(A)	This provision amounts to California's price for waiving its claim to the land within the NPR. This 7 percent set-aside does not score because the spending is subject to appropriations action.
7421.a.(f)	Maintaining Elk Hlls Unit Production. Sets requirements for Elk Hills to maintain production till sale is complete.	313(b)(1)(A)	This provision provides no change in revenue or outlays and is thus extraneous.
7421a.(j)(3)	Notice to Congress. Establishes a sense of the Congress regarding the Secretary of the Energy's approval of the Elk Hills site in the NPR.	313(b)(1)(A)	As a sense of the Senate, this provision produces no changes in revenue or outlays and is thus extraneous.
7421a.(k)	Joint Resolution of Approval. Provides fast track authority for congressional approval of the sale of the Elk Hills site in the NPR.	313(b)(1)(A)	This provision does not produce any change in revenue or outlays and is thus extraneous.
7421.a(1)	Noncompliance with Deadlines. Requires the Secretary of Energy to notify Congress if the sale is delayed.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.a(m)	Oversight. Requires the Comptroller General to monitor the sale.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.b.(a)	Sale Required. The sale of reserves in the NPR other than that at Elk Hills, CA.	313(b)(1)(E)	There is a loss of offsetting receipts in the outyears beyond 2002 that is not offset within the title. Thus, the provision produces revenue losses in years beyond the years covered in the budget resolution.
7421.b.(b)	Administration of Sale. Applies subsections c, d, h, i, j, k, l, m, and n or section 7421.a. of this title to the sale of sites other than Elk Hills.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.b.(b)(C)	Joint Resolution of Approval. Provides fast track authority for congressional consideration of the sale.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
	TITLE III		
	COMMITTEE: BANKING, HOUSING, AND URBAN AFFAIRS		
	Compliance: Yes		
3002	Deposit Insurance Study, Requires Secretary of the Treasury to conduct a study on converting the FDIC into a self-funded deposit insurance system.	313(b)(1)(A)	Instituting a study does not have an impact on the deficit. (Not in cost estimate)
3001(d)	Merger of BIF and SAIF	313(b)(1)(A)	Has no impact on the deficit.
	TITLE IV		
	COMMITTEE: COMMERCE, SCIENCE, AND TRANSPORTATION		
	Compliance: Yes		
4002	Annual Regulatory Fees	313(b)(1)(A)	Authorizing regulatory fees has no impact on the deficit until after appropriations. (not in cost estimate)
4001(a)(C)(i)(ii)	Spectrum language p. 207, lines 2–23	313(b)(1)(A)	This language has no impact on spending.
4021	Limits on Coast Guard User Fees	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4022(a)	Oil Spill Recovery Institute	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4022(A)	Use of Section 1012 in Alaska	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4033	Disaster Funding for Railroads	313(b)(1)(A)	This section clarifies procedures that allow the Secretary of Transportation to use LRFA for railroad disaster assistance. The section has no impact on the deficit. (not in cost estimate)
4034	Grade-crossing eligibility	313(b)(1)(A)	This section expands the list of activities eligible for LRFA and has no impact on the deficit. (not in cost estimate)
	TITLE V		
	COMMITTEE: ENERGY AND NATURAL RESOURCES		
	Compliance in 1, 5 and 7		
Subtitle A, Uranium Enrichment Corporation:			
5002	Statement of Purpose	(b)(1)(A)	Non-budgetary.
5004(d)(2) & (3)	Proceeds	(b)(1)(A)	Non-budgetary.
5013(a)(1)(B)	Low-Level Waste	(b)(1)(A)	Non-budgetary, requirement that DOE accept low-level waste from any operator of an enrichment facility.
5013(c)	Low-Level Waste	(b)(1)(A)	Non-budgetary, waiver of liability for State or Interstate Compact's requirement to accept low level nuclear waste from any enrichment facility.
Subtitle B, DOI:			
5100	California Land Directed Sale	Byrd 313(b)(1)(D)	Savings are merely incidental to the transfer of Federal land (Ward Valley) to the State of California for the purpose of creating a low-level radioactive waste site.
Subtitle C, ANWR:			
5202	Purpose and Policy	313(b)(1)(D)	Non-budgetary.
5206	Adequacy of 1987 EIS	313(b)(1)(A)	Extraneous; no budgetary impact. Overrides the impact assessment requirements of the National Environmental Policy Act (NEPA) by declaring that the 1987 environmental impact statement satisfies the requirements of NEPA.
5702(d), second sentence	Special Areas	313(b)(1)(A)	Non-budgetary, reporting requirements to Congress.
5212	Expedited Judicial Review	313(b)(1)(A)	Extraneous, no budgetary impact. Limits complaints seeking judicial review to 90 days after date of any regulation.
5213	Rights of way Requirements	313(b)(1)(A)	Extraneous, no budgetary impact. Overrides existing law (ANILCA's title XI) which delineates procedures for transportation rights of way within the Alaska refuges, including the ANWR.
5215(b)	New Revenues	313(b)(1)(A)	Non-budgetary, reporting requirements.
Subtitle D, Park Entrance Fees:			
5300(a)(3)	Fees	313(b)(1)(A)	Non-budgetary, authorization of appropriations.
5300(a)(10)	Fees	313(b)(1)(A)	Non-budgetary, report to Congress on fee collections.
5301	Challenge Cost-Share Agreements	313(b)(1)(A)	Non-budgetary, authorizes Secretary to enter into challenge cost-share agreements.
5302	Cost Recovery	313(B)(1)(A)	Non-budgetary, cost recovery for damage to National Parks resources.
5305(b)(2)	Allocation and Use of Fees	313(b)(1)(A)	Non-Budgetary, reporting requirements to Congress. (second sentence)

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
Subtitle E, Water Projects:			
5510(2)	Hetch Hetchy Dam	313(b)(1)(A)	Extraneous, no budget impact. Sets up fund subject to appropriations.
Subtitle F, Federal Oil and Gas Royalties:			
5509	Royalty In Kind	313(b)(1)(A)	Extraneous, no budgetary impact. Clarifies the Secretary's option to take royalty of oil and gas in kind.
5510	Royalty Simplification	313(b)(1)(A)	Extraneous, no budgetary impact. Requires Secretary to streamline royalty management requirements, and submit a report to Congress.
5512	Delegation to States	313(b)(1)(A)	Extraneous, no budgetary impact. Delegates certain auditing responsibilities to states.
5513	Performance Standard	313(b)(1)(A)	Extraneous, no budgetary impact. Changes the standards for assessing civil penalties.
Subtite H, Mining:			
5709	Use and Objectives of State Funds	313(b)(1)(A)	Extraneous, no budgetary impact. Stipulates how monies to states can be spent.
Part K: 5920	Radio and TV Site Communications Fees	313(b)(1)(A)	Extraneous, no budgetary impact. Enactment of this section would have no impact on receipts because the baseline already assumes that the BLM and the Forest Service would raise fees by this level beginning in 1996.
		TITLE VI	
		COMMITTEE: ENVIRONMENT & PUBLIC WORKS	
		Compliance in 5 and 7, not in 1	
Section 6002(c)	Rescission of appropriated demonstration projects	313(b)(1)(C)	These demonstration projects are not within EPW's jurisdiction.
		TITLE VII—SPENDING	
		COMMITTEE: FINANCE	
		Compliance: No in 1996 and 1996–2000	
Chap. 1	Medicare Choice Plans		
1895A(b)(1)(B)	Medical savings accounts	313(b)(1)(B)	Creates Medical Savings Accounts. Increases the deficit by $3.5 billion over 7 years.
1895A(c)(2)(B)	Special rule for end-stage renal disease	313(b)(1)(A)	Produces no change in outlays or revenues.
1895M(d)(3)	Report to the Congress on Medicare Choice	313(b)(1)(A)	Produces no change in outlays or revenues.
1895M(f)	Demonstration project on market-based reimbursement and competitive pricing.	313(b)(1)(A)	Produces no change in outlays or revenues.
1895R(c)	Report on the temporary certification of coordinated care plans.	313(b)(1)(A)	Produces no change in outlays or revenues.
1895R(f)	Partial capitation demonstration	313(b)(1)(A)	Produces no change in outlays or revenues.
Chap. 2:	General provisions related to Part A		
7012(c)	Development National Prospective Payment Rates for Current Non-PPS Hospitals.	313(b)(1)(A)	Requires Secretary of HHS to develop a proposal and recommendations. Produces no change in outlays or revenues.
7013(c)	Hospital-specific adjustment for capital-related costs.	313(b)(1)(D)	Redistributes payments among hospitals. Merely incidental to deficit reduction.
7013(d)	Revisions of exceptions process under PPS	313(b)(1)(D)	Changes exceptions process. Merely incidental to deficit reduction.
7036	Medical review process	313(b)(1)(A)	Requires HHS to establish a medical review process to examine effects of provisions on extended care services. According to CBO, produces no change in outlays or revenues.
7037	Report by Prospective Payment Commission	313(b)(1)(A)	Requires ProPAC to submit a report on SNF services. Produces no change in outlays or revenues.
Chap. 3:	Provisions Relating to Part B		
7043(c)	Payments for clinical lab diagnosis services study and report.	313(b)(1)(A)	Requires HHS to prepare study of fee schedule for clinical labs. Produces no change in outlays or revenues.
7044(c)	Upgraded Durable Medical Equipment	313(b)(1)(A)	Produces no change in outlays or revenues.
7050	Physician supervision of nurse anesthetists	313(b)(1)(A)	Requires HHS to revise regulations on anesthesia services. Produces no change in outlays or revenues.
Chap. 4:	Provisions Relating to A and B		
7056	Treatment of Assisted Suicide	313(b)(1)(A)	Prohibits payments for treatment of assisted suicide. Produces no change in outlays or revenues.
7057	Administrative provisions	313(b)(1)(A)	Codifies current status of Indian health facilities and Christian Science Providers as Federally qualified health centers. Produces no change in outlays or revenues.
7061(a)	Report to ProPAC	313(b)(1)(A)	Requires PROPAC to submit an annual report to Congress on Home Health payment methodology. Produces no change in outlays or revenues.
Chap. 5:	Rural Areas		
7071	Medicare-dependent, small, rural hospital payment extensions.	313(b)(1)(B)	Re-institutes Medicare Dependent Hospital program. Costs $0.4 billion over 7-years.
7072	Medicare rural hospital flexibility program	313(b)(1)(B)	Designates critical access hospitals in rural areas. Costs $0.2 billion over 7-years.
7073	Rural Emergency Access Care hospitals	313(b)(1)(B)	Establishes new program for REACH. Costs $0.2 billion over 7-years.
7074	Additional payments for physicians Services furnished in shortage areas.	313(b)(1)(B)	Increases payments to rural, primary care physicians. Costs $0.4 billion over 7-years.
7075	Payments to physician assistants and nurse practitioners.	313(b)(1)(B)	Pays physician assistants and nurse practitioners 85% for outpatient settings. Costs $0.3 billion over 7.
7076	Demonstration projects for telemedicine	313(b)(1)(A)	Authorization for demonstration project grants for Telemedicine. Produces no change in outlays or revenues.
7077	ProPAC recommendations on urban Medicare dependent hospitals.	313(b)(1)(A)	Directs ProPAC to make recommendations on hospitals that have a high number of Medicare patients and patient days. Produces no change in outlays or revenues.
Chap. 6:	Health Care Fraud and Abuse Prevention		
7112	Establishment of minimum period of exclusion for certain individuals.	313(b)(1)(A)	Codifies current practice. Produces no change in outlays or revenues.
7116	Anti-kickback penalties	313(b)(1)(A)	Directs Secretary to study benefits of volume and combination benefits under Medicare Produces no change in outlays or revenues.
7121	Data Collection Program	313(b)(1)(B)	Requires HHS to establish a national fraud and abuse data collection program. Provision increases the deficit.
Chap. 7:	Other Provisions for Trust Fund Solvency		
7171	Eligibility Age for Medicare	313(b)(1)(A)	Raises eligibility age of Medicare from 65 to 67. Produces no change in outlays or revenues during 7-year period.
7173	Transfers of B to Part A	313(b)(1)(A)	Transfers premium and deductible savings to Part-A trust fund. Produces no change in outlays or revenues.
7175	Budget Expenditure Limitation Tool (BELT)	313(b)(1)(A)	Produces no change in outlays or revenues.
		TITLE VI	
		COMMITTEE: FINANCE—MEDICAID	
		Compliance: Not in 1, not in 5, in compliance in 7	
Subtitle B, 7191:			
2100(a)	Purpose	313(b)(1)(A)	Extraneous; no budgetary impact. Statement of purpose.
2101	Discription of Strategic Objectives and Performance Goals.	313(b)(1)(A)	Extraneous, no budgetary impact. Lays out requirements for state plans including: (1) general description; (2) objectives and performance goals relating to childhood immunizations, infant mortality and standards of care; (3) factors states might consider in specifying objectives and goals; (4) performance measures.
2102(a)	Annual reports	313(b)(1)(A)	Extraneous, no budgetary impact. States are required to submit reports which include summaries of: expenditures and beneficiaries; utilizations; achievement of performance goals; program evaluations, fraud and abuse and quality control activities; administrative roles, and responsibilities, including organizational charts, costs, interstate compacts, and citations to state statutes; and inpatient hospital payments.
2102(a)	Special Rules	313(b)(1)(A)	Extraneous; no budgetary impact. Defines general categories of beneficiaries for use in State plans and reports.
2103	Periodic, Independent Evaluations	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to have an independent entity evaluate its Medicaid plan every three years.
2104	Description of Process for Medicaid Plan Development.	313(b)(1)(A)	Extraneous; no budgetary impact. Requires state plans to include a description of the process under which the plan is to be developed and implemented.
2105(a)	Consultation in Medicaid Plan Development	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to give public notice of, allow public inspection of, and consider public comments on state plans before submission. Does not apply to revisions. Specifies what is to be included in the notice, how the amendments may be described, where the notice may be published.
2105(b)	Advisory Committee	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to establish and maintain at least 1 advisory committee. Specifies issues on which states must consult with the advisory committee, and the geographic diversity of the advisory committee.
2106	Medicaid Task Force	313(b)(1)(A)	Extraneous; no budgetary impact. THe Secretary is to establish and provide administrative support for a Medicaid Task Force; membership is specified. An advisory group is to be established for the Task Force; the membership of the advisory group is specified.
2111(a)	Eligibility and Benefits	313(b)(1)(A)	Extraneous; no budgetary impact. State plans must serve all political subdivisions, provide for making medical assistance available to any pregnant woman or child under the age of 12 whose family income does not exceed 100 percent of poverty and to any individual with a disability.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
2111(b)(1)	Elements Relating to Eligibility	313(b)(1)(A)	Extraneous; no budgetary impact. Plans are required to describe: limitations on eligibility; eligibility standards; methods of establishing and continuing eligibility and enrollment; the eligibility standards that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent the impoverishment of a community spouse.
2111(b)(2–6)	Description of General Elements	313(b)(1)(A)	Extraneous; no budgetary impact. Plans are required to describe: the amount, duration and scope of health care services and items covered including differences among population groups; delivery method; under what circumstance fee-for-service benefits are furnished; cost-sharing if any; and utilization incentives.
2111(b)(7)	Support for Certain Hospitals	313(b)(1)(A)	Extraneous; no budgetary impact. Sets forth criteria for hospitals that are to be eligible for disproportionate share hospital (DSH) payments.
2111(c)	Immunizations for Children	313(b)(1)(A)	Extraneous; no budgetary impact. Requires plans to provide medical assistance for immunizations for children eligible for medical assistance in accordance with a schedule for immunizations established by the Health Department of the State.
2111(d)	Family Planning Services	313(b)(1)(A)	Extraneous; no budgetary impact. States shall provide prepregnancy planning services and supplies as specified by State.
2111(e)	Preexisting Condition Exclusions	313(b)(1)(A)	Extraneous; no budgetary impact. Prohibits States from denying coverage to eligible individuals on the basis of a preexisting condition. If a State allows a contractor to exclude coverage on the basis of a preexisting condition, the State must provide for such coverage through its Medicaid plan.
2111(f)	Mental Health Services	313(b)(1)(A)	Extraneous; no budgetary impact. A Medicaid plan shall not impose treatment limits or financial requirements on mental illness services which are not imposed on services for other illnesses or diseases. The plan may require pre-admission screening, prior authorization of services, or other mechanisms limiting coverage of mental illness services to services that are medically necessary.
2112	Set-asides For Population Groups	313(b)(1)(A)	Extraneous; no budgetary impact. State plans are required to provide 85 percent of amount spent in FY 1995 on low-income families; low-income elderly; and low-income disabled people. Excludes assistance provided to certain aliens. Includes DSH.
2112(d)	Use of Residual Funds	313(b)(1)(A)	Extraneous; no budgetary impact. Any funds not required to be expended under the set-asides may only be expended for: medical assistance for eligible low-income individuals, medically-related services, and administration.
2113	Premiums and Cost-sharing	313(b)(1)(A)	Extraneous; no budgetary impact. States may not impose cost-sharing on pregnant women and children under 100 percent of poverty for primary or preventive care under the Medicaid plan, unless the charge is nominal. States may impose cost-sharing to discourage the inappropriate use of emergency medical services. State may impose premiums and cost-sharing differentially.
2114	Description of Process for Developing Capitation Payment Rates.	313(b)(1)(A)	Extraneous; no budgetary impact. If a state plans to contract with a capitated health care organization, the plan must contain descriptions of the actuarial science that will be used to analyze health care expenditures and other data, the general qualifications required by the state, how data will be disseminated to contractors, and how enrollees will be identified. States must provide public notice about capitation rates unless the information is designated as proprietary and seek public comment. This section contains definitions.
2115	Construction	313(b)(1)(A)	Extraneous; no budgetary impact. Outlines state flexibility in benefits, provider payments, geographical coverage and selection of providers. Says that states do not have any specific responsibility to beneficiaries or providers for particular services or payments or for consistent benefits and payments throughout a state. Provides flexibility for contracting with managed care providers or case management services.
2116	Causes of Action	313(b)(1)(A)	Extraneous; no budgetary impact. States that no applicants, beneficiaries, providers or health care plans has a right to sue if a State fails to comply with this law or with the provisions of a Medicaid plan. Provides that no person shall be excluded from participation in any program funded under this title on the ground of sex or religion. Outlines procedures when State is found to discriminate. States that nothing in this subsection may be construed as affecting any actions brought under State law.
2117	Treatment of Income and Resources	313(b)(1)(A)	Extraneous; no budgetary impact. Spousal impoverishment. Includes definitions.
2121	Allotment of Funds Among States	313(b)(1)(B)	Extraneous; costs. This section contains the pool of available funds. The section outlines procedures for determining a state's allotment. It provides for allowing states to draw down future allotments or carry over 1996 funds. It sets out procedures for notifying state of their allotments and calls for a GAO review of the allotments. This section also contains definitions.
2122	Payments to States	313(b)(1)(A)	Sets forth payments to States for medical assistance, medically related services, and administrative expenses, in relation to the state's Federal medical assistance percentage (FMAP), which are defined. Makes provisions for overpayments. Contains restraints on provider-related donations and health care-related taxes; includes a waiver for broad-based health care taxes not related to payments. Contains definitions. Includes treatment of the Territories and Indian Health programs.
2122(g)	Authority to Use Portion of Payment for Other Purposes.	313(b)(1)(A)	Extraneous; no budgetary impact. Superwaiver. Allows state to use up to 30 percent of the grant during a fiscal year to carry out a State program pursuant to a waiver granted under Section 1115 involving the new Temp. Assistance block grant, MCH block grants, SSI, Medicare, Title XX (SSBG) and the Food Stamp program. States required to approve or disapprove waiver within 90 days and State are to encourage waivers.
2123	Limitation on Use of Funds; Disallowance	313(b)(1)(A)	Extraneous; no budgetary impact. No payments are to be used for providers excluded from participation under other programs including MCH block grant, Medicare and Title XX. Defines treatment of third party liability. Medicaid is the secondary payer to any other Federal operated or financed health care program. No payments shall be made to a state for medical assistance furnished to an alien who is not lawfully admitted for permanent residence, except for emergency services, if the alien otherwise meets the eligibility requirements for Medicaid and are not related to organ transplants.
2123(g)	Limitation on Payment for Abortions	313(b)(1)(A)	Extraneous; no budgetary impact. No funds are to be made to a State for any amount expended to pay for any abortion or to assist in the purchase in whole or in part of health benefit coverage that includes coverage or abortion. Does not apply in the case of rape or incest or if the woman's life is in danger.
2123(h)	Treatment of Assisted Suicide	313(b)(1)(A)	Extraneous; no budgetary impact. No payments made to pay for or assist in the purchase in whole or in part of health benefit coverage that includes payment for any drug, biological product or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.
2123(i)	Unauthorized Use of Funds	313(b)(1)(A)	Extraneous; no budgetary impact. No payments shall be used to purchase or improve land or construct or remodel buildings, to pay room and board except when provided as part of a temporary, respite care, to provide educational services without regard to income, or to provide vocational rehabilitation or other employment and training services available through other programs.
2124	Grant Program for Community Health Centers and Rural Health Clinics.	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary is to set aside 1 percent of the pool amount to be used for grants for primary and preventive health care services at rural health clinics and Federal qualified health centers.
2131	Use of Audits to Achieve Fiscal Integrity	313(b)(1)(A)	Extraneous; no budgetary impact. Requires annual audits of State expenditures. Requires states to adopt and maintain fiscal controls, accounting procedures, and data processing safeguards which are consistent with generally accepted accounting principles.
2132	Fraud Prevention Program	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have programs to detect and prevent fraud and abuse. Includes program requirements. Requires States to report information about providers excluded from program to the Secretary and State medical licensing board.
2133	Information Concerning Sanctions Taken by State Licensing Authorities against Health Care Practitioners and Providers.	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have reporting systems about proceedings against providers.
2134	Medicaid Fraud Control Units	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have Medicaid fraud units. Organization of unit is specified. It is to provide for collection of overpayments.
2135	Recoveries from Third Parties and Providers	313(b)(1)(A)	Extraneous; no budgetary impact. Each State plan shall take reasonable steps to ascertain the legal liability of third parties to pay for care and services under the plan. Provides protections to beneficiaries. Provides penalties in the form of reductions of payments to a person who violates this section.
2135(f)	Required Laws Relating to Medical Child Support	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have laws that prohibit insurers from denying enrollment of a child under the health coverage of a parent on the ground that the child was born out-of-wedlock, is not claimed on the parent's income tax return, or does not reside with the parent or in the insurer's service area. Contains further provisions to assure access to health insurance for kids with divorced parents.
2135(g)	Estate Recoveries and Liens permitted	313(b)(1)(A)	Extraneous; no budgetary impact. States may take appropriate action to recover from an individual or estate any amounts paid as medical assistance to or on behalf of the individual under the plan including through the imposition of liens against property or the estate. A state may not impost a lien on the principal residence of moderate value or the family farm owned by the individual as a condition of the spouse of that individual receiving long term care.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
2136	Assignments of Rights of Payment	313(b)(1)(A)	Extraneous; no budgetary impact. States may require as a condition of eligibility that individuals: assign to the State any rights to payment for medical care from any third party; cooperate in establishing paternity if the person is a child born out of wedlock and in obtaining support payments for himself and such a child unless the individual is a pregnant woman or is found to have good cause for refusing.
2137	Quality Assurance Standards for Nursing Facilities	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to establish nursing home standards. Provides procedures for when a State determines that a nursing home previously certified for participation no longer meets the requirements.
2138	Other Provisions Promoting Prgm Integrity	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to make public findings of any survey of any health care facility or organization. Record keeping of services provided to individuals required.
2151	Submittal and Approval of Medicaid Plans	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to submit plans that meet the requirements of this title as a condition of receiving funding.
2152	Submittal and Approval of Plan Amendments	313(b)(1)(A)	Extraneous; no budgetary impact. States may amend their plan at any time. States must provide public notice of any amendments that eliminate or restrict eligibility or benefits.
2153	Sanctions for Substantial Noncompliance	313(b)(1)(A)	Extraneous; no budgetary impact. Secretary is required to review plans and amendments promptly. The Secretary must notify a State within 30 days if its plan substantially violates a requirement of this title and will issue an order that the plan is not to become effective. If upon finding the administration of the plan to be in violation, after notice and opportunity for a hearing, the Secretary shall order remedy. Provides for State response, corrective action, review, failure to respond, judicial hearing.
2154	Secretarial Authority	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary and the State can negotiate a satisfactory resolution to any dispute concerning the approval of a Medicaid plan.
2171	Definitions	313(b)(1)(A)	Extraneous; no budgetary impact.
2172	Treatment of Territories	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary may waive certain requirements for the Territories.
2173	Descriptions of Treatment of Indian Health Programs.	313(b)(1)(A)	Extraneous; no budgetary impact. State plans must include provisions made for any Indian health programs operated under the plan.
7192	Medicaid Drug Rebate Program	313(b)(1)(A)	Extraneous; no budgetary impact. No payment shall be made to a state for covered outpatient drugs unless the manufacturer has entered into a Medicaid rebate agreement with the Secretary. States are not required to participate in the Medicaid rebate agreement.
7193	Waivers	313(b)(1)(A)	Extraneous; no budgetary impact. Allows States with Section 1115 waivers to opt to continue to operate such a waiver, and to continue to receive funding under the waiver, as long as it does not exceed funding granted under this Title. If states opt to terminate a waiver, they are held harmless for accrued cost neutrality liabilities.
7194	Children with Special Health Care Needs	313(b)(1)(A)	Extraneous; no budgetary impact. Authorization of appropriations. The Secretary is required to develop a national classification system to identify children with special health care needs. The Secretary is allowed to make grants to not more than 5 States to conduct 5-year demonstration projects to test the reliability of the classification system, develop methods of assuring quality care for children with special needs, provide for methods to identify these children. These projects will develop adequate capitation rates for these children.
7195	CBO Reports	313(b)(1)(A)	Extraneous; no budgetary impact. CBO is to prepare an annual analysis of the effects of these amendments on the health insurance status of children, retirees, and the disabled and to report by May 15.
	Title VII		
	COMMITTEE FINANCE—WELFARE AND OTHER		
	Compliance: Not in 1, not in 5, in compliance in 7		
	Block Grants for Temporary Assistance for Needy Families		
Subtitle C, Under 7201:			
401	Purpose	313(b)(1)(A)	Extraneous; no budgetary impact.
402	Eligible States; State Plan	313(b)(1)(A)	Extraneous; no budgetary impact. Requires States to have a written plan and to make the plan available to the pacific.
403	Payments to States and Indian Tribes	313(b)(1)(B)	Extraneous; costs. This section establishes the block grant.
403(a)(2)(C)	Notification	313(b)(1)(A)	Extraneous; no budgetary impact. Requires Secretary to notify the State 3 months in advance about the amount a State's grant will be reduced to pay for the program for Indians in that State.
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous; costs. Provides additional grants to States with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former State.	313(b)(1)(A)	Extraneous; no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former state if the family has resided in the current state less than 12 months.
403(b)(3)	Authority to Reserve Certain Amounts for Assistance	313(b)(1)(A)	Extraneous; no budgetary impact. Allows States to reserve for assistance or child care.
403(b)(4)	Authority to Operate Employment Placement Program.	313(b)(1)(A)	Extraneous; no budgetary impact. Allows States to make payments or provide vouchers to State-approved public and private job placement agencies that provide employment placement services to people who receive assistance.
403(c)	Timing of Payments	313(b)(1)(A)	Extraneous; no budgetary impact. Allows for quarterly installments.
403(d)	Federal Loan Fund for State Welfare Programs	313(b)(1)(A)	Extraneous; CBO states in a footnote that under the rules of credit reform this does not score. Establishes a $1.7 billion ''rainy day'' revolving fund. States must pay back loans with interest.
403(e)	Indian Tribes that Receive JOBS Funds	313(b)(1)(B)	Extraneous; costs. Grant for Indian tribes to maker work activities available.
403(f)	Job Placement Performance Bonus	313(b)(1)(B)	Extraneous; cost. Establishes a bonus fund to reward States for high job placement rates. Paid for out of totals.
403(h)	Contingency Fund	313(b)(1)(B)	Extraneous; costs. Provides $1 billion for matching grants to States with high unemployment. Requires 100 percent maintenance of effort.
404(c)(3)(F) Provision in parens lines 8–10.	Vocational Educational Training	313(b)(1)(A)	Extraneous; does not score. Limits States from counting more than 1 year of vocational education as a work activity.
404(c)(4)	Limitation on Vocational Education	313(b)(1)(A)	Not more than 25 percent of adults engaged in work are allowed to meet the work requirement through vocational educational training.
404(d)	Penalties Against Individuals	313(b)(1)(A)	States are required to reduce the amount of assistance payable to a family if an adult refuses to engage in work activities.
404(f)	Sense of the Congress	313(b)(1)(A)	Extraneous; does not score. States are encouraged to assign priority to requiring adults in 2-parent families and adults in single parent families that include older preschool or school-age children to be engaged in work activities.
404(g)	Encouragement to Provide Child Care Services	313(b)(1)(A)	Extraneous; does not score. States may treat individuals providing day care to other participating individuals as meeting the work requirements.
405	Requirements and Limitations	313(b)(1)(A)	Extraneous; does not score. Requires States to enter into personal responsibility contract with families receiving assistance.
405(b)(1)	No Assistance for More Than Five Years	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.
405(d)	Denial of Assistance for Fugitive Felons and Probation and Parole Violators.	313(b)(1)(A)	Extraneous; does not score. Fugitive felons, those on probation and in violation of parole are not eligible for assistance. Allows for exchange of information with law enforcement officials for purposes of enforcing this section.
405(e)	State Option to Require Assignment of Support	313(b)(1)(A)	Extraneous; does not score. States may require that individuals assign to the State any rights to support from any other person.
405(f)	Denial of Assistance	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance to a family with respect to any minor who is absent for 45 days, or, at State option, not less than 30 and not more than 90 consecutive days. Allows for good cause exceptions.
406(a)	Promoting Responsible Parenting	313(b)(1)(A)	Extraneous; does not score. Series of findings.
406(b)	State Option to Deny Assistance for Out-of-Wedlock Births to Minors.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State Option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(d)(1)	Requirement That Teenage Parents Live in Adult-Supervised Settings.	313(b)(1)(A)	Extraneous; does not score. If a State provides assistance to an unmarried teenage mother, that individual must reside with a parent, guardian, or other adult relative.
406(d)(2)	Exception	313(b)(1)(A)	Extraneous; does not score. Exception is provided if the individual lives in an adult-supervised living arrangement (such as a second chance home.) States can help locate such an arrangement.
406(d)(3)	Assistance to States in Providing or Locating Adult-Supervised Supportive Living Arrangement for.	313(b)(1)(B)	Extraneous; costs. Provides $25 million in grants to States for supportive living arrangements such as second chance homes.
406(e)	Requirement that Teenage Parents Attend High School or Equivalent Training Program.	313(b)(1)(A)	Extraneous; does not score. State shall not provide assistance or, at State option, shall reduce assistance for someone who has not completed high school and is not in school or an approved alternative educational or training program.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock Births.	313(b)(1)(B)	Extraneous; costs. Provides additional funds to States that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.
406(g)	State Option to Deny Assistance in Certain Situations.	313(b)(1)(A)	Extraneous; no cost impact. Nothing should be construed to restrict the authority of a State to limit assistance if the limitation is not inconsistent with the provisions of this part.
408	Audits	313(b)(1)(A)	Extraneous; no cost impact. Requires annual audits by an approved entity which must be submitted to the Secretaries of Treasury and HHS.
409	Data Collection and Reporting	313(b)(1)(A)	Extraneous; no cost impact. Secretary is required to develop a quality assurance system of data collection and reporting. Data described.
410	Research, Evaluations, and National Studies	313(b)(1)(B)	Extraneous; overall costs. Requires research on benefits, effects and costs of operating different State programs, including time limits. Secretary may assist States in developing and evaluating innovative approaches.
410(d)	Annual Ranking of States and Review of Most and Least Successful Work programs.	313(b)(1)(A)	Extraneous; no cost impact. Requires Secretary to rank states in order of their success in placing recipients into long-term private sector jobs, reducing welfare caseload, and diverting individuals from formally applying.
410(e)	Annual Ranking of States and Review of Issues Relating to.	313(b)(1)(A)	Extraneous; no cost impact. Requires Secretary to rank states on the basis of out-of-wedlock rates relative to live births and changes in the out-of-wedlock ratio.
411	Study by the Census Bureau	313(b)(1)(A)	Extraneous. Requires Census to expand the Survey of Income and Program Participation to allow evaluation on a random national sample of recipients. ''Secretary shall appropriate from funds not otherwise appropriated.''
412	Waivers	313(b)(1)(B)	The section as a whole scores because of 412(b)(3), but as a cost. Allows States to continue to operate under current waivers.
412(b)(3)	Hold Harmless	313(b)(1)(B)	Extraneous; costs. States who request to terminate a waiver will be held harmless for accrued cost neutrality liabilities.
413	State and County Demonstration	313(b)(1)(B)	Extraneous; costs. Allows for demonstrations of innovative and effective program designs.
414	Direct Funding and Administration by Indian Tribes	313(b)(1)(B)	Extraneous; costs. Provides funding to Indian tribes for administration of grants. Requires tribes to submit plans with minimum work requirements. Provides for emergency assistance, accountability, penalties, and data collection.
415	Assistant Secretary for Family Support	313(b)(1)(A)	Extraneous; no cost impact. Program is to be administered by such a Secretary.
416	Limitation on Federal Authority	313(b)(1)(A)	Extraneous; no cost impact. HHS and Treasury may not regulate the conduct of the States except to the extent expressly provided in this part.
417	Appeal of Adverse Decision	313(b)(1)(A)	Extraneous; no cost impact. Lays out procedures for appealing an adverse decision of the Secretary.
418	Performance Bonus and High Performance Bonus	313(b)(1)(B)	Extraneous; costs. 5 States with highest percentage performance improvement receive a bonus. Note: this is paid for with previous year's penalties so some might claim it is deficit neutral. However, it is a separate and discrete section.
419	Amounts for Child Care	313(b)(1)(B)	Extraneous; costs. Provides current funding plus $3 billion over 5 years for grants to states for child care. Provides for distribution of funds and administration of programs.
420	Eligibility for Child Care Assistance	313(b)(1)(A)	Extraneous; no cost impact. Allows states to determine who is eligible for child care assistance.
7202	Services Provided by Charitable	313(b)(1)(A)	Extraneous; no cost impact. Allows states to provide services through contracts with charitable, religious, or private organizations.
7206	Development of Prototype of Counterfeit-resistant Soc. Sec. Card.	313(b)(1)(A)	Extraneous; no cost impact. Authorization of appropriations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous; no cost impact.
7208	Modifications to the Job Opportunities for Certain Low-Income Individuals program.	313(b)(1)(A)	Extraneous; no cost impact. Authorization of Appropriations.
7209	Demonstration Projects for School Utilization	313(b)(1)(A)	Extraneous; no cost impact. Authorization of Appropriations.
7211	Parental Responsibility Contracts	313(b)(1)(A)	
7212	Expenditure of Fed Funds in Accordance with Laws and Procedures Applicable to Expenditure of State Funds.	313(b)(1)(A)	
Subtitle D, SSI:			
7251(e)	Supplemental Funding for Alcohol and Substance Abuse Treatment Programs.	313(b)(1)(B)	Extraneous; costs. $100 million for treatment.
7271	Annual Report on SSI	313(b)(1)(A)	Extraneous; no cost impact. Requires Secretary to prepare an annual report describing the program, providing historical data, and making projections for the future.
7273	Study of Disability Determination	313(b)(1)(A)	Extraneous; no cost impact.
Chapter 4, 7282–7	Nat'l Commission on Future of Disability	313(b)(1)(A)	Extraneous; no cost impact.
Chapter 5	State Supplementation Programs	313(b)(1)(D)	Extraneous; merely incidental. Repeals Maintenance of Effort requirements applicable to Optional State programs for supplementation of SSI. CBO is unable to estimate savings, but says they will be small. Most savings will accrue to the states.
Chapter 6, 7295	Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous; no cost impact within the 7-year budget window.
Subtitle E, Child Support:			
Sec. 7301	State Obligation to Provide Child Support Enforcement Services.	313(b)(1)(B)	Extraneous; costs.
Sec. 7302	Distribution of Child Support Collections	313(b)(1)(B)	Extraneous; costs.
Sec. 7303	Rights to Notification/Hearings	313(b)(1)(A)	Extraneous; no cost impact. Establishes procedures to assure parties receive notifications and have access to hearings.
Sec. 7304	Privacy Safeguards	313(b)(1)(A)	Extraneous; no cost impact. Establishes a State plan requirement to protect against unauthorized use of information.
7341(a)(2)(b)	Performance-Based Incentives and penalties	313(b)(1)(A)	Extraneous; no budgetary impact. Orders the Secretary to develop a formula for the distribution of incentive payments.
7344	Automated Data Processing Requirements (O&M)	313(b)(1)(B)	Extraneous; costs. Requires States to have a single system in accordance with this section's provisions.
7344	Automated Data Processing Development	313(b)(1)(B)	Extraneous; costs. Creates a federal matching rate for development costs of automated systems.
7345(a)(j)	Technical Assistance. For training federal and state staff, R&D programs, and special projects.	313(b)(1)(B)	Extraneous; costs. This section appropriates 1% of the amount paid to the U.S. in the previous fiscal year pursuant to 475(a).
7351	National Child Support Guidelines Commission	313(b)(1)(A)	Extraneous; no budgetary impact. This section creates a Commission to establish guidelines for a national child support policy.
7352	Simplified Process for Review of Child Support Orders.	313(b)(1)(B)	Extraneous; costs. This section lists procedures the State may employ to review and adjust each support order.
Ch. 7. Sec. 7369	State Law Authorizing Suspension Licenses	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 7. Sec.	Denial of Passports for Nonpayment of Child Support.	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 7. Sec. 7371	International Child Support Enforcement	313(b)(1)(A)	Extraneous; no budgetary impact. Gives Secretary of State authority to negotiate agreements in foreign nations to enforce child support laws.
Ch. 7. Sec. 7375(b)	Sense of the Senate. Regarding how states can collect enforcement costs.	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 7. Sec. 7377	Sense of the Senate. Regarding noncustodial parent's inability to pay child support.	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 8. Sec. 7379	Enforcement of Orders for Health Care Coverage	313(b)(1)(B)	Costs. This provision obligates states to provide services.
Ch. 9. Sec. 7381	Grants to States for Visitation	313(b)(1)(B)	Extraneous; costs. This provision requires the Administration for Children and Families to make grants to States so that parents can visit their children.
Subtitle F, Noncitizens: 7406	Information Reporting	313(b)(1)(A)	Extraneous; no cost impact. Requires states to make quarterly reports with the names and addresses of individuals known to be unlawfully in the US.
Subtitle G, Add'l Provisions Relating to Welfare			
Chapter 1—Reductions in Federal Positions:			
7411–3	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous; no direct spending impact. Reduction is on the discretionary side of the budget.
7422	Establishing Nat'l Goals to Prevent Teenage Pregnancies.	313(b)(1)(A)	Extraneous; no spending impact. Requires the Secretary to establish and implement a strategy for preventing out-of-wedlock teenage pregnancies. Requires a report to Congress.
Chapter 4:			
7441	Exemption of Battered Individuals from Certain Requirements.	313(b)(1)(B)	Extraneous; costs. Exempts from the provisions of this Subtitles D–F any individual who has been battered or subjected to extreme cruelty, if the application of the provision would endanger the individual.
7442	Sense of the Senate on Legislative Accountability for unfunded Mandates.	313(b)(1)(A)	Extraneous; no cost impact. Sense of the Senate that prior to acting on the conference report on welfare, CBO shall prepare an analysis to include estimates of costs to States of meeting the work requirements, the resources available to the States to meet the requirements, and the amount of additional revenues needed to meet the work requirements.
7443	Sense of the Senate Regarding Enforcement of Statutory Rape Laws.	313(b)(1)(A)	Extraneous; no cost impact. SoS that State and local jurisdictions should aggressively enforce statutory rape laws.
7444	Sanctioning for Testing Positive for Controlled Substances.	313(b)(1)(A)	Extraneous; no cost impact. Allows states to sanction people who test positive for illegal substances.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J, COLAs: 7481	SoS Regarding Corrections of Cost of Living Adjustments.	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the US, and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.
		TITLE X	
		COMMITTEE: LABOR AND HUMAN RESOURCES	
		Compliance: Yes	
§ 10002(c)(1) ''(a)(2)(C)''	Participation of Institutions and Administration of Loan Programs, Limitation on Certain [administrative] Expenses.	313(b)(1)(A)	Total administrative funds are fixed in 1002(c)(1) ''(a)(1)(A)'', therefore the limitation on indirect expenses and the use of funds for promotion does not score.
§ 10002(g) p. 15, lines 14–16	Participation of Institutions and Administration of Loan Programs, School Origination Payment, ''Sense of Senate'' provision.	313(b)(1)(A)	A Sense of the Senate statement, that a fee shall not be charged to students in the form of increase tuition, can not be considered a term or condition.
§ 10003(d)	Loan Terms & Conditions, Use of Electronic Forms	313(b)(1)(A)	Permitting development of forms does not score. [Not in cost estimate.]
§ 10003(e)	Loan Terms & Conditions, Application for Part B Loans Using Free Federal Application.	313(b)(1)(A)	Clarifying use of electronic forms does not score. [Not in cost estimate.]
§ 10005(a)	Amendments Affecting Guarantee Agencies, Use of Reserve Funds to Purchase Defaulted Loans.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
§ 10005(e)	Amendments Affecting Guarantee Agencies, Reserve Fund Reforms.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
§ 10005(g)	Amendments Affecting Guarantee Agencies, National Student Loan Clearinghouse.	313(b)(1)(A)	Permitting authority to use clearinghouse is not a term and condition. [Not in cost estimate.]
§ 10005(h)	Amendments Affecting Guarantee Agencies, Prohibition Regarding Marketing, Advertising, and Promotion.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
Title XI	Veterans' Affairs	310(c)	Out of compliance in 1st year (1996).
12104	Distribution to collectibles	313(b)(1)(A)	No budgetary impact.
12114	Changes to Merchant Marine Act	313(b)(1)(C)	Jurisdiction.
12213	Allows states to establish standards for long term care policies.	313(b)(1)(A)	No budgetary impact.
12401	Requires Secretary of Labor to implement a program to encourage small businesses to find qualified employees.	313(b)(1)(A)	No budgetary impact.
12421	Extends expedited refund of excise tax paid regarding ethanol.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12431	Exempts Alaska from diesel dyeing requirements	313(b)(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as a $1 million loss over seven years.
12501 to 12510	Taxpayer Bill of Rights 2	313(b0(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as losing $20 million over seven years.
12702	Allows tax exempt organizations to accept ''qualified sponsorship payments'' without being subject to the unrelated business income tax.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12703	Exempts agriculture and horticulture organizations from unrelated business income tax on associate dues of less than $100.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12705	Provides exceptions to the notification 313(b)(1)(A) requirements to beneficiaries of charitable remainder trusts.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12706	Allows football coaches retirement plan to be considered a multi-employer plan under ERISA.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12822	Provides that the rollover of gain on the sale of a home cannot be elected by a nonresident alien.	313(b)(1)(D)	Merely incidental budgetary impact. Join Tax Committee scores as losing less than $500,000 over seven years.
12874	Requires the trustees of the Combined Fund to provide documents to contributors.	313(b)(1)(A)	No budgetary impact.
12875	Clarifies that newspaper carriers are independent contractors.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12876	Allows bank common trust funds to transfer assets to regulated investment trusts.	313(b)(1)(A)	No budgetary impact.
12901	Repeal of family aggregation rules for qualified pension plans.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as being ''considered in other provisions.''
12903	Changes the minimum participation rules for qualified pension plans.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12931	Clarifies when individuals are ''leased'' employees.''	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12932	Eliminates special aggregation rules for pension plans maintained by unincorporated employers.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12935	Allows government pensions to pay higher benefits	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12937	Creates a special rule for contributions on behalf of disabled employees.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12938	Allows rural cooperative plans to make distributions to participants after the attainment of age 59½.	313(b)(1)(b)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12940	Provides that for purposes of the general nondiscrimination rules that the Social Security retirement age is a uniform retirement age.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as being ''considered in other provisions.''
12941	Clarifies that 403b plans for tribal governments are not disqualified because the contract was purchased on behalf of employees who are not employees of educational organizations.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12951 to 12968	Creates special rules for church retirement plans	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''

MORNING BUSINESS

Mr. GRAMS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. THOMAS. Mr. President, I am honored to serve as a member of the Advisory Commission on Intergovernmental Relations [ACIR]. In this era of ''new federalism,'' the government must create a partnership with state and local governments that is based on balanced, decentralized decision making. These governments have been the laboratories for change for the last 20 years. A streamlined and more flexible intergovernmental system will offer significant opportunities for state and local governments to develop more innovative and cost effective methods of delivering programs and services. State and local governments are now ready to rise to the challenges of this new era in history—the Information Age—where experimentation and local control are needed.

For example, as this Congress moves to balance the budget and restore fiscal responsibility and accountability at the federal level, it cannot do so on the backs of state and local governments. My involvement in drafting Public Law 104–4, the Unfunded Mandates Reform Law, was an effort to relieve this burden. As a former Wyoming state legislator, I am well aware of the hardships the federal government places on states and localities.

I look forward to working with the other members of the ACIR in implementing the unfunded mandates reform law and sharing with my Senate colleagues the effects of federal policy making on state and local governments. Together, we can usher in a new era of government and restore federalism as the founding fathers intended over 200 years ago.

FRANCES W. NOLDE, PIONEER AVIATRIX

Mr. SPECTER. Mr. President, I was recently advised of the passing of a distinguished American, Frances W. Nolde, of Reading, PA. In addition to an illustrious career as a pioneer in aviation and in the theater, she is the mother of a distinguished Washingtonian, H. Christopher Nolde, who is the husband of another distinguished Washingtonian, Mrs. Sylvia Nolde, who was my Executive Assistant for almost 14 years after serving in a similar capacity with Senator Jacob Javits.

Mr. President, I wish to acknowledge the life of Frances W. Nolde with a brief recitation of her career for the CONGRESSIONAL RECORD.

Frances W. Nolde was a woman ahead of her time, whose life spanned nearly the entire 20th century. She made unique contributions to the field of aviation as a pilot, World War II Civil Air Patrol leader, visionary, and achiever, all the while raising a family of seven children, founding and directing a country day school, and receiving acclaim as a civic leader in her home community. Musically talented, with a flair for the dramatic, Mrs. Nolde had a budding career on stage and in radio.

Born in Deposit, NY, in 1902, she attended Oberlin Conservatory of Music and graduated from Syracuse University with a BA and BS in Music. She married Carlton Brown, who later became an accomplished Hollywood screen writer. Their marriage ended in divorce.

Frances lived in the New York City area and played in a hit Broadway musical ''Lady Be Good,'' starring Fred Astaire in the 1920s, and starred in one of the first radio soap operas, under her stage name Gloria Gay.

Upon marrying a successful businessman, Hans W. Nolde, Frances moved to Reading, PA, where she was one of the first to combine career and family and became well known for civic and philanthropic activities. She was a board member of the Junior League and founded and directed The New School, and country day school.

A pioneer in aviation, Frances Nolde was one of the early women pilots, beginning in 1940. During World War II she commanded a Civil Air Patrol [CAP] courier base, flying cargo and key personnel for the war industries. She held the rank of full colonel, the highest allowable to women at that time, and was the first National Director of Women in Aviation for the CAP.

In 1948 she won the inaugural All-Women's Transcontinental Air Race—Powder Puff Derby—from Los Angeles to Miami.

The Distinguished Citizen's Award for Leadership in the Advancement of Aviation was presented in 1950 to her by the Altrusa International Organization.

Mrs. Nolde served as an Airport Commissioner and arranged with General Carl A. Spaatz and the U.S. Air Force to rename the Reading municipal Airport as the General Carl A. Spaatz Field.

She later became associated with the Reading Aviation Service and was Public Relations Director of Aviation Consultants, Inc.

Upon her divorce from Hans, she moved to the Washington, D.C., area where she lived for more than 40 years. During that time she was employed by the U.S. Department of Commerce as the Director of General Aviation in the Defense Air Transportation Administration. She was responsible for the Civil Air Reserve Fleet and the National Emergency Airlift Plan. Mrs. Nolde was a member of the American Newspaper Women's Clubs, the Top Flight Club, and the Ambassador's Club.

Her accomplishments and contributions include: vice-president National Aeronautics Association; delegate to Federation Aeronautique Internationale [FAI]; vice-president, FAI Economic Technical Commission; Governor 99's (International Organization of Women Pilots) and Vice President of its Contest Division; Vice President and Treasurer of Aero Club of Washington, DC.; Board of Governors and membership Chairman of National Aviation Club; member President's ''Women's Advisory Committee on Aviation.''

Mrs. Nolde held a commercial pilots rating, and logged more than 10,000 hours flying time over her outstanding aviation career. A full biography can be found in Who's Who In The World Of Aviation and also in Who's Who of American Women.

A long time resident of Bethesda, MD, Mrs. Nolde was 93 when she passed away on October 22. She is survived by her son, H. Christopher Nolde, of Washington, D.C.; daughter Sally Lutyens of Manset, ME; daughter Frances D. Nolde of Maynard, MA; 9 grandchildren and 8 great-grandchildren.

SENATOR CHARLES GRASSLEY

Mr. PRESSLER. Mr. President, CHUCK GRASSLEY is a man I much admire. Someday when I am out of here teaching a college course, I plan to cite CHUCK as a model Senator. He is not aware that I am placing this into the CONGRESSIONAL RECORD, and I am sure that he would protest the cost. However, I believe it is well worth it because he is probably the hardest working, most decent Senator around here. I often say, ''CHUCK GRASSLEY is a real U.S. Senator. He is the real McCoy.'' He keeps a low profile but gets a lot done around here that never is credited to him. He is the type of a U.S. Senator that I particularly like. While some are retiring from this body with much fanfare, and others are holding press conferences about their achievements, CHUCK GRASSLEY keeps quietly working away. In the end, he will go down as one of the great U.S. Senators.

Mr. President, I ask unanimous consent to have printed in the RECORD a recent article that appeared in The Hill on October 25, 1995.

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

[From The Hill, Oct. 25, 1995]

SEN. CHARLES GRASSLEY—IOWA REPUBLICAN STANDS OUT AS WORKHORSE AMONG SENATE SHOWHORSES

(By Albert Eisele)

You can't get much more grassroots than Sen. Charles Grassley (R–Iowa).

Early this month, the 62-year-old crusader against federal waste was at the wheel of an International Harvester 1450 tractor, hauling a load of soybeans to a grain elevator near his family farm in northeastern Iowa.

The only working farmer in the Senate, Grassley interrupted his farming chores to issue a press release informing his constituents he had regained his Agriculture Committee seat, which he was forced to give up in January when committee assignments were redistributed after Republicans took control of the Senate.

But last week, Grassley was back in the Senate, behind the closed doors of the Finance Committee helping Republicans work out disagreements over their controversial $245-billion tax cut package, and then defending that package from Democratic criticism in full committee.

''If you're concerned about balancing the budget, you'll be for this program,'' Grassley declared as he and his GOP colleagues sent their historic tax package to the Senate floor as part of the even more historic budget reconciliation bill.

Then, using a metaphor appropriate to his Iowa origins and his parochial view of his role in the Senate, once described by Congressional Quarterly as ''pigs and pork,'' Grassley said, ''The people of this country are tired of living high on the hog, and not worrying about our children or grandchildren paying for it.''

For the man who is the philosophical heir of the late Rep. H. R. Gross (R), the quintessential penny-pinching legislator whom Grassley succeeded in the House in 1974, it was a characteristic moment.

Never hailed as an intellectual giant or an inspiring orator, the easy-going third-term senator has made his name, and compiled a truly imposing campaign record, by balancing the needs of Iowa farmers and small businesses with the national yearning for fiscal discipline in government.

Despite one of the lowest profiles in the Senate, Grassley has managed, by stint of sheer hard work, country-bred political smarts and a low-octane ego, to place himself in the middle of the Senate debate over the big ticket issues of tax cuts, budget balancing and welfare reform at the heart of the Republican revolution.

As a member of the Finance Committee, the number two Republican on the Budget Committee behind Chairman Pete Domenici (R–N.M.), and a member of the House-Senate conference committee on welfare reform which holds its first meeting today, Grassley is perfectly positioned to add to his already impressive electoral achievements in Iowa, where he has never lost a race.

Elected to the state legislature while studying for a doctorate at the University of Iowa—he left school after he was elected and never returned—Grassley took over his family farm after his father died in 1960.

By 1974, when he won a narrow victory over a Democratic opponent to replace the retiring Rep. Gross, Grassley has bought additional acreage—it's now just under 600 acres—and turned the farm over to his son Robin, who still farms it, with weekend help from his father in the fall and spring.

Then, in 1980, after Iowa voters dumped liberal Democratic Sen. Dick Clark in favor of conservative Republican Roger Jepson two years earlier, Grassley took on Clark's liberal Democratic colleague, John Culver, after winning 90 of the state's 99 counties in the GOP primary.

His emphasis on pocketbook issues and his earnest demeanor, which belied Culver's charges that he was a tool of the Moral Majority and New Right, earned Grassley an unexpectedly comfortable victory with 54 percent of the vote.

Amazingly, for someone whose name and accomplishments are little-known outside of Iowa, and widely discounted inside the Washington Beltway, Grassley has one of the best records as a campaigner of anyone in the Senate. Of the 43 senators who have run for three or more terms, Grassley is the only one, other than John Warner (R–Va.) and two others who ran unopposed, who has significantly improved his electoral margin in each of the last three elections.

After winning 54 percent of the vote in 1980, he easily disposed of his Democratic challenger in 1986 by taking 66 percent of the vote, and crushed his opponent in 1992, highly touted state Sen. Jean Lloyd-Jones, by winning 70 percent of the vote.

The latter victory was one of historic proportions as he carried every single county while winning by the largest statewide margin in the county, and winning more votes than any candidate in the history of the state—President Eisenhower had the old record.

Grassley has an uncanny ability to translate national issues, such as defense fraud, tax reform, out-of-control government spending, congressional accountability, and international trade—especially for Iowa farm and manufacturing products—into issues of local appeal.

Grassley scored one of his major successes earlier this year when the 104th Congress enacted its first piece of legislation, the Congressional Accountability Act that made Congress subject to the same labor and anti-discrimination laws that apply to all Americans. Grassley has been pushing for such a law since 1989.

But it was his attack on government waste and fraud that first brought him public attention. In 1984, as chairman of the Judiciary Subcommittee on Administrative Practices, he publicized the notorious $7,600 coffee maker bought by the Air Force. Then, in 1990, he won headlines by uncovering Pentagon purchases of $999 screwdrivers and $1,868 toilet seats.

Grassley is proudest of two major achievements, passage of the Congressional Accountability Act and his work with Rep. Howard Berman (D-Calif.) in promoting the 1986 ''whistle blower'' provisions, known as the ''qui tam'' amendments to the False Claims Act, which enabled the Justice Department to recover more than $1 billion in civil fraud cases since 1986.

Over breakfast in the Senate Dining Room last week, Grassley, who had a very un-Iowa-like breakfast—a grapefruit with honey and black coffee—commented, almost apologetically, on the fact that very little major legislation bears his name.

''Sometimes I think the passage of legislation might not necessarily be the best way to measure a person's most important accomplishments,'' he said. ''Sometimes, it's what you might do to stop a bad administrative action or get an amicus brief before the Supreme Court on child pornography.''

Grassley has already signed onto Senate Majority Leader Bob Dole's (Kan.) presidential bandwagon, so it's no surprise he predicts Dole will win the bellwether Iowa caucuses next February. But he concedes that Dole will have to beat the 38-percent figure he got in 1986.

And for those who want to bet a long shot, the most successful politician in Iowa history offers this startling advice: ''Keep an eye on Phil Gramm [R-Texas]. He's the one to watch.''

NAOMI ROSENBLATT

Mr. PRESSLER. Mr. President, it has been my great privilege to have attended Naomi Rosenblatt's bible classes over the past few years. I have found her teaching to be directly related to my duties in the U.S. Senate. She is a splendid teacher, but more importantly, a fine, insightful person. I wish that time would allow me to attend more of her classes.

Naomi Rosenblatt takes the approach that the great stories of the Bible are relevant today—as we struggle with some of the same issues in running the United States as Joseph faced in running ancient Egypt for the Pharoah.

Recently a review of her new book appeared in the Washington Post. It summarizes some of her classes that I have attended along with certain other Senators and journalists. I ask unanimous consent to have the article printed in the RECORD.

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

[From the Washington Post, October 15, 1995]

THE BIBLE TELLS US SO

(By Jonathan Groner)

In an era when many of our politicians are still trying to locate the proper place of religion in American life, Naomi Rosenblatt has for several years played the role of Bible teacher to many of Capitol Hill's movers and shakers. The weekly Old Testament classes led by Rosenblatt, an Israeli-born Washington psychotherapist, have captivated tough political professionals like senators Larry Pressler and Arlen Specter and journalists William Safire and Marvin Kalb, *Wrestling with Angels,* co-written with her longtime student Joshua Horwitz but bearing Rosenblatt's stamp as chief author, grows out of these sessions.

It's Rosenblatt's first book, and what a fascinating effort it is; part biblical interpretation, part self-help treatise; a book that adopts an unmistakably Jewish perspective yet remains accessible to readers of all backgrounds.

Rosenblatt's ambitious project was to traverse the entire book of Genesis—amply familiar for the stories of Adam and Eve, Noah and the flood, the Tower of Babel, and the wanderings of the patriarchs Abraham, Isaac and Jacob—and to derive from it universal and psychologically valid lessons about human character. Her approach to the first book of the Bible is inseparable from her therapeutic method.

Rosenblatt says that her role as interpreter of the text is to provide ''a psychological and spiritual examination of the multigenerational family,'' by which she means the family of Abraham, Sarah and their descendants. Sibling rivalries, midlife crises, blended families, guilt and personal responsibility—these are the therapist's stock in trade. Rosenblatt is able to convince me, most of the time, that these also represent useful interpretive tools in understanding the biblical text.

Two thousand years ago, a rabbi said in the Mishna that he had learned more from his students than from his teachers. In struggling with these old riddles, Rosenblatt too enjoyed the assistance of her students. Like the Talmud, *Wrestling with Angels* is a distillation of discussions held over a period of years. And the questions with which Rosenblatt grapples, as she fully understands, were already noted by the rabbis of the Jewish tradition, who provided their own answers. What was the real nature of the sin of Adam and Eve? Why did God command Abraham to sacrifice his only son? With whom was Jacob really wrestling in his nocturnal encounter with the ''angel''? What was the secret of Joseph's success in Egypt?

Yet Rosenblatt's method yields new solutions, or at least new versions of old solutions. Here is her interpretation of Jacob's wrestling with the angel: ''Is this 'man' his twin brother, Esau, with whom he wrestled in the womb and whom he must confront the next morning? Is he Jacob's shadow self, the darker part of his psyche that doubts and fears—that he must integrate before he can become whole? Could he be an angle of death, Jacob's fear of mortality rising up to greet him on the eve of his brother's revenge? . . . It seems to me that the 'man' is all of these.'' Rosenblatt's sensitive reading takes full advantage of the ambiguity and mysteriousness of the biblical story, which is a dream an allegory, or both.

As might be expected, Rosenblatt is at her most convincing when she touches on the portions of Genesis that deal explicitly with intra-family conflicts. The text tells us this directly in Chapter 25, after all: Of her twins, Rebekah preferred Jacob, while Isaac, their father, chose Esau as his favorite. From these facts sprang rivalry and disruption that continued for generations. Rosenblatt's psychological filter is helpful here. She explains, for example, that the story of Jacob and Esau ''is a strong warning to us of the danger to children when parents draw them into the shifting power balance of their marriage.'' That's as true now as it was then.

Rosenblatt's thoughts often echo and extend some of the interpretations already found in Jewish tradition. The result is as if one were seeing the old stories with new eyes. The tradition notes, for example, that once Isaac was consecrated and nearly sacrificed on the altar by Abraham, he took on a personal holiness and thus was never allowed to venture beyond the holy land of Israel. Speaking from a psychological perspective, Rosenblatt also recognizes how circumscribed Isaac's life was. As a child growing up in the shadow of a famous father, she argues, Isaac ''never experiences the cathartic personal transformation that the other patriarchs undergo.''

Or Rosenblatt explains how Jacob's ''emotional blindness on his wedding night mirrors Isaac's physical blindness when bestowing his blessing on his son [Jacob].'' This echoes an old rabbinical interpretation that emphasized how the onetime deceiver, Jacob, was later himself the victim of deception.

Not all of Rosenblatt's interpretations are on target. My understanding of the conflict between the wives of Jacob was not measurably aided by Rosenblatt's digression on the dilemma of 20th-century women who are torn between career and motherhood. Nor did her cursory discussion of the attempted seduction of Joseph in Egypt, citing modern views of sexual harassment, add anything to my thinking on either the Joseph narrative or the harassment dynamic. She somewhat shortchanges the whole Joseph narrative, a section of Genesis that gets better treatment from the brilliant contemporary critic Robert Alter.

But these are minor points. Rosenblatt's students on Capitol Hill feel privileged that she is their teacher, and now that this book is available, all of us who take the Bible seriously can consider ourselves similarly blessed.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, more than 3 years ago I began these daily reports to the Senate to make a matter of record the exact Federal debt as of close of business the previous day.

As of the close of business Wednesday, October 25, the Federal debt stood at exactly $4,977,804,019,628.98. On a per capita basis, every man, woman, and child in America owes $18,895.83 as his or her share of the Federal debt.

It is important to recall, Mr. President, that the Senate this year missed an opportunity to implement a balanced budget amendment to the U.S. Constitution. Regrettably, the Senate failed by one vote in that first attempt to bring the Federal debt under control.

There will be another opportunity in the months ahead to approve such a Constitutional amendment.

GOVERNOR LEAVITT'S DECLARATION REGARDING GREEK-AMERICAN VETERANS APPRECIATION WEEK

Mr. BENNETT. Mr. President, I rise today to have printed in the RECORD a Declaration signed by Governor Mike Leavitt of Utah entitled: ''Greek-American Veterans Appreciation Week, November 5–November 12, 1995.''

During the week of November 5th, the Hellenic Cultural Association in Utah is sponsoring a series of events which include a variety of displays in the Hellenic Cultural Museum, Memorial Services and a Greek-American Veterans' Luncheon.

The events have been created to coincide with the 50th Anniversary of the ending of World War II and also for the annual observance of Veterans Day, November 11th.

I salute the Greek Community in Utah for this effort. To my knowledge they are the only Greek Community in America which is honoring their veterans in this way.

I extend my appreciation, support and gratitude to Chris S. Metos, Chairman of the appreciation week. I applaud him for his leadership in this endeavor.

I ask unanimous consent that the text of the declaration be printed in the RECORD.

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

DECLARATION

Whereas, ancient Greece is universally recognized as the cradle of Western Civilization, and America historically has close affinities with the ideals exemplified in the Legacy of Ancient Greece and, more recently, with modern Greece; and

Whereas, the tiny country of Greece fought valiantly against overwhelming Axis forces in World War I and World War II and thus contributed mightily to ultimate victory of the Allied countries; and

Whereas, immigrants to America from Greece and their descendants have established themselves as hard working, law abiding, patriotic, progressive American citizens; and

Whereas, Greek-Americans from the State of Utah have responded enthusiastically to the call for active military and merchant marine duty when needed by the United States; and

Whereas, thirty-five Greek-Americans from the State of Utah made the supreme sacrifice for their country in World War I, World War II and the Korean Conflict; and

Whereas, Greek-American veterans returning to civilian life have been highly productive in their chosen careers and professions, including business, medicine, law, engineering, education, etc., whereby the community, state, and nation have benefited greatly and will continue to benefit from their high qualities of leadership, work ethic, love and devotion to family, church and country; and

Whereas, Greek-American veterans of the armed forces and merchant marines of the United States and Greece are gathering at the Hellenic Memorial Cultural Center in Salt Lake City, Utah, Sunday, November 12, 1995, to honor their fallen comrades, to meet socially as a group, to affirm their faith, love and loyalty to the United States and to the Constitution; and

Whereas, the Hellenic Cultural Association-Hellenic Cultural Museum, a non-sectarian, independent, cultural organization seeks to honor these Greek-American veterans and their fallen comrades by sponsoring memorial services, museum tours, displays, and a Greek-American Veterans Appreciation Luncheon, Sunday, November 12, 1995, in Salt Lake City;

Now, Therefore, I, Michael O. Leavitt, Governor of the State of Utah, do hereby declare November 5 through 12, 1995, as Greek-American Veterans Appreciation Week in Utah, to be dedicated to the preservation of the Legacy of Greek and of American ideals, leadership, patriotism and citizenship as exemplified by the Greek-American veterans of the military and merchant marine forces of the United States and Greece.

MICHAEL O. LEAVITT,
Governor.

JUDGE ROBERT E. WISS

Mr. THURMOND. Mr. President, I rise today to pay tribute to an outstanding judge, a faithful naval officer, and a remarkable individual, the Honorable Robert E. Wiss, a judge on the U.S. Court of Appeals for the Armed Forces. Judge Wiss was 66 when he passed away on Monday morning, October 23, 1995.

Judge Wiss was born in Chicago, IL in 1929 and graduated from the University of Illinois in 1950. He entered the service in that same year for 3 years of active duty but he did not end his military career at that point. He continued in the reserves and finally retired in 1988 as a rear admiral in the Navy's Judge Advocate Generals Corps.

Judge Wiss was an excellent lawyer who received his degree from Northwestern in 1956 and taught law at John Marshall Law School. He was a member of numerous bar associations and was admitted to practice before over a half dozen courts to include the U.S. Supreme Court.

He was truly a talented individual who loved the military, understood it mission, and believed in a strong national defense. He fully understood as well the need for the Uniform Code of Military Justice. Judge Wiss believed that the system was better than any other system of justice in existence but if change was needed, it should be pursued with vigor. If no change was in order, however, Judge Wiss did not tolerate anything short of complete adherence and respect for that system.

In the eyes of those who knew him, he was a legal figure of great stature. In his own mind, he was never important, only extremely fortunate. All people mattered to him and his wife and children most of all. Our thoughts and prayers will be with his wife Charlene and his three daughters, Julia, Karen, and Laurel. He will be missed.

IN MEMORY OF JUDGE ROBERT E. WISS OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

Mr. NUNN. I join with Senator THURMOND in paying tribute to the memory of Judge Robert E. Wiss of the U.S. Court of Appeals for the Armed Forces. Judge Wiss, who was in the midst of his term on the Court, passed away on October 23, 1995.

Judge Wiss joined the court in 1991 after a distinguished career in both the public and private sectors. In his civilian career, he served as a special counsel to the city of Chicago and as general counsel to Cook County. He had a very successful private practice, rising to senior partnership with the firm of Foran, Wiss, & Schultz. He also was a distinguished teacher, serving on the faculty of the John Marshall Law School in Chicago. He also played a leading role in many bar associations and civic activities.

In addition to his very active civilian practice, Judge Wiss had a lifelong commitment to military law. He served on active duty from 1950 to 1953, and in the Naval Reserve from 1953 to 1988, advancing to the grade of rear admiral. Highlights of his military career included services as director of the Naval Reserve Law Program and commanding officer of the Navy and Marine Appellate Review activity.

Judge Wiss appeared before our committee in 1991 following his nomination to serve on the U.S. Court of Appeals for the Armed Forces—which was then denominated as the Court of Military Appeals. He received the unanimous approval of our committee and was confirmed by the Senate.

In his 4 years on the court, Judge Wiss distinguished himself by his thorough scholarship, probing questions, and keen interest in preserving the dignity and fairness of the military justice system. He will be missed by his colleagues on the court, the lawyers

who practiced before him, and his many other friends and admirers. I would like to extend my deepest sympathy to his wife Charlene, and to his children, Julia Leahy, Karen Wiss, and Laurel Latimer. They can be very proud of his outstanding contribution to our Nation.

SUPERFUND REFORM

Mr. PRESSLER. Mr. President, I wanted to bring to my colleagues' attention the concerns of a prominent South Dakotan regarding the Superfund program.

Like many of my colleagues, during the August recess, I spent considerable time back home talking to my constituents. While in South Dakota, one issue came up on numerous occasions: Superfund reform. This issue is important to small business men and women throughout South Dakota.

Recently, an op-ed by Bill Huebner of Rapid City, SD, was published in the Wall Street Journal. This article details Mr. Huebner's own unfortunate experience with Superfund. I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. We all agree that the current Superfund program does not work. It is one of the most expensive environmental programs on the books. Despite the vast amounts of taxpayer dollars that have poured into the Superfund, the program has a very low success rate. One of the prime causes of this low success rate is a confusing and costly liability system. This system is unfair to small businesses. It encourages excessive and costly litigation.

I am encouraged by the draft proposal drawn up by my esteemed colleague from New Hampshire, Senator SMITH. As chairman of the Superfund, Waste Control and Risk Management Subcommittee, he has assumed the daunting task of rewriting the existing Superfund law. I look forward to working with him to create a new Superfund law based on fairness and common sense. We should not insist on a system that calls on small businesses that have complied with past laws and regulations to continue shouldering the burden of cleaning up our hazardous waste sites.

Bill Huebner's article represents not only the concerns of South Dakota small business leaders, but of all small business men and women across the country. They are the innovators who collectively make our economic engine run. For that reason, we should take their concerns and experiences to heart in our reexamination of the Superfund program.

EXHIBIT 1

[From the Wall Street Journal, Oct. 26, 1995]

MY SUPERFUND NIGHTMARE

(By Bill Huebner)

I'm sitting here at my desk starting at a three-foot-high pile of letters, legal motions, and other documents. That pile of paper tells my Superfund story—a 3½-year nightmare that cost my company time, money and business.

For those who don't know, Superfund is the federal government's program to clean up America's worst hazardous waste sites. It was established by Congress in 1980 with $1.6 billion in funding. Today, 15 years later, more than $20 billion in government and private sector funds have been spent. More than 1,300 hazardous waste sites have been identified by the Environmental Protection Agency. But only a tiny fraction of these sites have actually been cleaned up.

Where did Superfund go wrong? Read on.

Back in November 1991, I received a letter addressed to Ace Steel & Metals, claiming I owed $47,000 as my share of the bill to clean up the Douglas County, Neb., Superfund site. Between 1940 and 1982, the letter said, the property had been owned by a series of battery recycling companies. Apparently, some battery lead and acid had seeped into the ground, creating a hazardous waste area.

There were only a few problems. First my company is Act Steel & Recycling, not Ace Steel & Metals. Second, we never sent any batteries to Douglas County. And third, we weren't even in business until 1989—a full seven years after they said the last battery was dumped.

A simple case of mistaken identity. I thought. In 1989, we bought about 20 % of the assets of a company called Ace Salvage, as well as the right to use the ''Ace'' name. That company was still in business, operating as Lipp Ventures. Lipp had sent the batteries to the Douglas County site, so they must be the one the EPA wanted. A letter from my lawyer explaining the situation should clear the whole thing up, right? Wrong.

Our first letter generated no response, so we sent another. This time, we documented everything. We sent copies of our original articles of incorporation from 1989, proving that we couldn't have been responsible for the problems at the Douglas County Superfund site.

Again, no response to speak of. Just a letter of acknowledgment saying thank you very much for the information, but you still owe $47,000. Needless to say, as a small business, we didn't have an extra $47,000 to spare—in fact, that was more than our profit for the entire year. We had to fight on or go out of business.

Finally, after 3½ years, Lipp's attorney settled with the lawyers from Douglas County. No one ever admitted there had been a mistake, but Ace Steel & Recycling was removed from the case ''with prejudice.'' That means the plaintiff reserves the right to bring us back into the lawsuit, so we might not be out of danger yet.

Don't think for a minute that my case was some kind of freak accident. More than 20,000 small and medium-sized businesses, community groups, and other organizations across America have been dragged into the Superfund mess.

The primary problem with Superfund is its unfair liability system known as ''retroactive, strict, joint and several liability.'' Retroactive liability gives the EPA the power to make companies pay to clean up problems that occurred before Superfund was passed, even if they followed every rule on the books at the time. And under joint and several liability, a single company can be forced to finance the entire cleanup cost, no matter now marginal its contribution to the site.

With marching orders like those, you can easily guess the EPA's standard operating procedure: Track down every company with even the most remote connection to a Superfund site, force them to pay, or drag them into court. Most companies fight the charges, rather than pay to clean up a problem they had little or no responsibility for creating. All the litigation caused by Superfund's notorious liability scheme is the main reason it now costs $30 million and takes 12 years to clean up the average Superfund site.

Congress will shortly begin debating Superfund reform legislation. Its top priority must be total repeal of retroactive liability. Superfund reform opponents claim that ending retroactive liability will let polluters off the hook and force taxpayers to pick up the bill. Not true. The program will still be financed by a tax on oil and chemical companies and other large corporations. Individual taxpayers won't have to pay a penny—unless Congress keeps Superfund on it failed course for another 15 years.

Repealing retroactive liability will put an end to wasteful litigation and force the EPA to focus on cleaning toxic waste sites instead of harassing innocent companies. Superfund cleanup could start immediately. And think of how many additional Superfund sites could be cleaned up if 50% of the money wasn't wasted on lawyers and bureaucrats.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:56 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1322. An act to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

H.R. 716. An act to amend the Fishermen's Protective Act.

H.R. 1026. An act to designate the United States Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, Colorado, as the ''Winfield Scott Stratton Post Office.''

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 26, 1995, he had presented to the President of the United States, the following enrolled bill:

S. 1322. An act to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1550. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Royalty Management Program, Department of the Interior,

transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–1551. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to Exxon and stripper well oil overcharge funds as of June 30, 1995; to the Committee on Energy and Natural Resources.

EC–1552. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation entitled ''The Federal Energy Regulatory Commission Act of 1995''; to the Committee on Energy and Natural Resources.

EC–1553. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Royalty Management Program, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–1554. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report of a flood plain management assessment; to the Committee on Environment and Public Works.

EC–1555. A communication from the Chair of the Prospective Payment Assessment Commission and the Chair of the Physician Payment Review Commission, transmitting jointly, pursuant to law, a report on Medicare Managed Care; to the Committee on Finance.

EC–1556. A communication from the Chair of the Foreign Claims Settlement Commission, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Foreign Relations.

EC–1557. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–1558. A communication from the Director of the Woodrow Wilson Center, transmitting, pursuant to law, the semiannual report of the Inspector General for fiscal year 1995; to the Committee on Governmental Affairs.

EC–1559. A communication from the Head of the Nonappropriated Fund Personnel and Insurance Branch, transmitting, pursuant to law, the report for the Navy NAF Retirement Plan for calendar year 1993; to the Committee on Governmental Affairs.

EC–1560. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference for fiscal year 1994; to the Committee on the Judiciary.

EC–1561. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation to amend title 38, U.S. Code, to expand the authority of the Secretary of Veterans' Affairs to suspend special pay agreements for physicians and dentists who enter residency training programs; to the Committee on Veterans' Affairs.

EC–1562. A communication from the Comptroller General, transmitting, pursuant to law, the report of a revised deferral of budget authority; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated.

POM–454. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

''SENATE JOINT RESOLUTION NO. 21

''Whereas, the interstate Tahoe Regional Planning Compact ratified pursuant to Title 7.4 (commencing with Section 66800) of the Government Code created the Tahoe Regional Planning Agency; and

''Whereas, the agency is responsible for facilitating the attainment of environmental thresholds in the areas of air quality, transportation, scenic resources, and water quality; and

''Whereas, providing nonmotorized transportation facilities allows recreationists and residents to travel in the Tahoe Basin without an automobile, is consistent with the achievement of those thresholds, and leads to improved air quality and reduced vehicle miles traveled; and

''Whereas, approximately one-third of Lake Tahoe is currently provided with nonmotorized facilities through past cooperative work by local, state, and federal agencies; and

''Whereas, a trailside survey of the existing nonmotorized facilities provided by the Tahoe City Public Utility District shows usage and demand for recreation and commuter use to be exceptionally high; and

''Whereas, a completed nonmotorized facility around the lake would be a major recreational attraction leading to increased economic improvement in the tourism base; and

''Whereas, an enthusiastic ''partnership'' of public, private, and volunteer groups is ready to move forward to develop such a nonmotorized facility; and

''Whereas, full construction of the ultimate nonmotorized facility will require considerable cooperation between the federal government, the two states that are parties to the compact, local governments, and special districts, and will require a cooperative effort by all parties, public and private, in meeting funding needs over the next five years with a goal of full operation of the system by the year 2000; Now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That California state agencies, counties, cities, and districts in the Tahoe Basin, the Tahoe Regional Planning Agency, and other interested parties are urged to undertake the necessary steps to ensure the designation and siting, by July 1, 1996, and the development, by July 1, 2000, of an appropriate nonmotorized route on the California side of the Tahoe Basin; and be it further

Resolved, That the United States Forest Service is hereby urged to provide assistance to the Tahoe Regional Planning Agency to ensure the designation and siting of an appropriate nonmotorized route on the California side of the Tahoe Basin by July 1, 1996; and be it further

Resolved, That the Legislature of the State of California memorializes the President and the Congress of the United States to support the development of the Lake Tahoe Nonmotorized Bikeway and Pedestrian Facility; and be it further

Resolved, That the Tahoe Regional Planning Agency be requested to pursue a similar resolution and concurrent action with the State of Nevada; and be it further

Resolved, That planning for the nonmotorized facility consider the needs of both the recreational user who wishes to take an enjoyable tour of the Lake Tahoe shoreline, as well as the ''serious'' commuter or recreational traveler who wishes to travel the perimeter of the lake; and be it further

Resolved, That support of this resolution be based on the understanding that all facility development will be consistent with the thresholds established as a requirement of the interstate compact; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Director of the United States Forest Service, to the President pro Tempore of the United States Senate, to the Speaker of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Tahoe Regional Planning Agency, to the Governor of California, to the Board of Supervisors of El Dorado County, to the Board of Supervisors of Placer County, to the City of South Lake Tahoe, to the Board of Directors of the Tahoe City Public Utilities District, and to the Board of Directors of the North Tahoe Public Utilities District.''

POM–455. A joint resolution adopted by the Legislature of the State of California to the Committee on Appropriations.

''SENATE JOINT RESOLUTION NO. 17

''Whereas, the United States government has mandated that state and local governments provide various services to immigrants, whether they are in this country legally or illegally, and has failed to reimburse those state and local governments for the costs of providing those services; and

''Whereas, the United States government historically has failed to adequately control the influx of undocumented immigrants into this country; and

''Whereas, the United States Supreme Court has repeatedly held that regulating the movement of individuals between this country and other nations is exclusively a federal responsibility; and

''Whereas, the costs associated with the supervision of parolees should never have been borne by the State of California because federal law mandates the prompt deportation of criminal aliens; and

''Whereas, the United States Congress enacted the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103–322), authorizing a total of one billion eight hundred million dollars ($1,800,000,000) to be distributed to several states over a period of six years to cover incarceration costs of illegal immigrants, but did not actually appropriate or provide the funds to the states; and

''Whereas, the amount authorized by the federal act would not, in any event, cover more than a fraction of the costs to the State of California associated with the incarceration of illegal immigrants; and

''Whereas, the failure of the United States government to adequately control the borders, in addition to the imposition of huge mandated but unreimbursed costs to state and local governments, has led to blatant inequities in terms of exploitation of undocumented laborers, and abuse of wage, safety, and child labor laws, as well as lower wage levels for California's working poor; and

''Whereas, California, Florida, and other states have suffered disproportionately from the failure of the United States government to control this nation's borders; and

''Whereas, California, Florida, and other states have brought legal actions with federal district courts to compel the United States government to reimburse them for the costs associated with providing mandated and other services to illegal immigrants; and

''Whereas, the federal district courts have dimissed these actions at the request of the United States government based on the doctrine of sovereign immunity, the most recent dismissal being that regarding the action brought by the State of California in the United States District Court in and for the Southern District of California, entitled State of California v. United States of America, Case No. 94–0674 K (CM); and

''Whereas, there is clear precedent for acting to waive the provisions regarding sovereign immunity in situations such as these; and

''Whereas, the continuing dispute between the State of California and the United States government regarding actual costs of providing unreimbursed services to illegal immigrants can best be resolved in an objective judicial proceeding; and

''Whereas, Congress also has the power to take salutary action by amending the Violent Crime Control and Law Enforcement Act of 1994 to appropriate, and distribute to the states over the next six years, the sum of one billion eight hundred million dollars ($1,800,000,000), as originally authorized by the act, to cover costs of incarcerating illegal immigrants; Now therefore, be it

''*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to do all of the following:

''(a) Enact legislation to waive the immunity of the United States government to all suits brought by the states seeking reimbursement for all costs resulting from illegal immigration.

''(b) Enact legislation to facilitate the transfer from state and local custody to the Federal Bureau of Prisons all illegal immigrants in state and local correctional facilities.

''(c) Appropriate and distribute all funds necessary to cover the costs to the various states associated with providing services to illegal immigrants; and be it further

''*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.''

POM–456. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Armed Services.

''SENATE CONCURRENT RESOLUTION NO. 109.

''Whereas, in response to the call of officials and citizens alike, the United States Department of Defense, through the Defense Reutilization and Marketing Service, has achieved remarkable success as a pilot project committed to bringing sound business practices to a worldwide governmental operation. This initiative, which has been made more important by the reorganization of military facilities and base closures around the world, has been nominated for major recognition through the Innovations in American Government program coordinated by the Harvard University Kennedy School of Government; and

''Whereas, the Defense Reutilization and Marketing Service is charged with the mission of selling Department of Defense assets, reutilizing resources, transferring property and materials, and encouraging the recovery of metals. With the ever-increasing speed of change in technology and the unique demands of military preparedness in our volatile world, the task facing the Defense Reutilization and Marketing Service is a substantial one, representing enormous sums of capital. Fittingly, the Defense Logistics Agency of the Department of Defense selected the Defense Reutilization and Marketing Service as a pilot project under the Government Performance Results Act of 1993. Since that time, this operation has constituted a wonderful example of reinventing policies and attitudes in government; and

''Whereas, Michigan has been the recipient of numerous benefits through the efforts of the Defense Reutilization and Marketing Service. Products from around the world have gone to Michigan schools, youth groups, universities, museums, local units of government, and police departments. Several million dollars worth of materials, ranging from camping equipment to heavy machinery, have been put to good use; and

''Whereas, the Defense Reutilization and Marketing Service responded to its challenge with true business strategies of putting customers first, improving processes and the use of technologies, empowering employees to get results, and meeting customer requirements at a reduced cost. With emphasis on maximizing return to the taxpayer, the service has achieved remarkable success in increasing total assets by nearly 200 percent and attaining self-sufficiency with an operating profit of $17 million. These impressive figures represent a wonderful beginning. Most importantly, the success of this effort has generated a rethinking of all levels, with employees adopting attitudes consistent with those found in a sound and productive business. We hope all governmental agencies will follow this lead: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we recognize the achievements of the Defense Reutilization and Marketing Service in being recognized nationally for representing the reinvention potential that exists within the federal government; and be it further

Resolved, That we memorialize the Congress of the United States to continue to encourage the progress of the Defense Reutilization and Marketing Service and similar programs in all governmental units; and be it further

Resolved, That copies of this resolution be transmitted to officials of the National Performance Review, the Department of Defense, the Defense Logistics Agency, and the Defense Reutilization and Marketing Service, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–457. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

''SENATE JOINT RESOLUTION NO. 10

''Whereas, the federal government has attempted to impose national solutions to solve state and regional problems for decades; and

''Whereas, in that frame of policymaking, the role of the federal government in transportation has increased substantially over the past five decades; and

''Whereas, construction of the Interstate Highway System to link all states with a good network of roads was a desirable objective when it was introduced, and that system is very near completion; and

''Whereas, the federal government has expanded its role and mandates beyond the initial interstate system; and

''Whereas, the federal government's responsibilities for highway and mass transit are essentially that of tax collector, payor of public funds, ''second-guesser,'' regulator, and reviewer; and

''Whereas, the state and local governments have continued to be the actual providers of services; and

''Whereas, the states possess the capability to collect their own taxes and formulate their own expenditure priorities without federal oversight or mandates; and

''Whereas, the state and local governments have encouraged and contributed to this gradual increase in federal involvement; and

''Whereas, the new Congress and the President are considering options for reinventing federal government and reducing its involvement in areas in which federal involvement is not necessary; and

''Whereas, the effort of the previous Congress was to establish a new national transportation system to add other modes of transportation only for the sake of intermodalism; and

''Whereas, that action would increase, rather than decrease, the federal role in an area that is not necessary; and

''Whereas, the federal government can do more for intermodalism by eliminating its role in highway building than by expanding its role into transit; and

''Whereas, state and local agencies should recognize that by asking for federal money they are asking for federal intervention and that they cannot expect the United States government to furnish funds and not order them to spend those funds in mandated ways, that every federal dollar received is paid to the federal tax collectors by California residents, and that California taxpayers are benefited if the federal role in collecting and distributing taxes is eliminated. Now, therefore, be it

''*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take appropriate action to reorganize the federal Department of Transportation, eliminate federal programs for highways and transit, and limit the federal role in transportation to national safety standards, aviation, the Coast Guard, and Amtrak; and be it further

''*Resolved,* That federal efforts to develop and establish a national transportation system should be abandoned, and California transportation agencies are urged not to participate in the formation of that system; and be it further

''*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States and to the United States Secretary of Transportation.''

POM–458. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

''SENATE JOINT RESOLUTION NO. 30

''Whereas, Yosemite National Park has long been a favorite destination for horseback travelers, and in the park's early days, tourism facilities in Yosemite Valley depended on pack trains and stagecoaches to import supplies and guests, and to provide communication to that then-remote part of the Sierra-Nevada Mountains; and

''Whereas, in 1865, James M. Hutchings opened the first saddle train business in Yosemite, which provided pleasure riding and guide services for guests; and

''Whereas, Yosemite National Park consistently receives high numbers of visitors and, in 1994, a record number of 4.1 million people visited the park; and

''Whereas, only 5 percent of the park's total number of annual visitors leave the paved, developed areas of the park thus leaving most of the 1,170 square-mile park for

those persons who prefer a less crowded, more adventurous experience; and

''Whereas, in January of this year, head managers of the Yosemite Stables were given notice that the park's concessionaire, the Yosemite Concessions Services, intends to shut down the stable operations prior to the 1996 season; however, the National park Service has recommended that the stables remain open for another year until the economic and environmental considerations relating to horse operations in the park can be thoroughly evaluated; and

''Whereas, Yosemite stable operations is one of the most profitable services in the park; and

''Whereas, if the Yosemite Concessions Services horse operations are shut down, the park revenues from trail fees will be decreased and the level of trail maintenance will deteriorate; and

''Whereas, if the Yosemite Stables close down, no private use of corrals will be possible, thus making it difficult for individuals with private stock to make use of the riding trails out of Yosemite; Now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature expresses its opposition to the closure of the Yosemite Stables for environmental and economic reasons; and be it further

Resolved, That the Legislature memorializes the National Park Service, the President, and the Congress of the United States to take steps necessary to prevent the closure of the Yosemite Stables; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, to the Secretary of the Interior, to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States''.

POM–459. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

''SENATE JOINT RESOLUTION NO. 2

''Whereas, through the Clean Air Act and its amendments (42 U.S.C. Sec. 7401 et seq.), the federal government has undertaken the laudable task of ridding the air we breathe of pollution; and

''Whereas, a balance must be struck between any steps taken to reduce air pollution, and the adverse impact those steps may have upon the economy, the business climate, and the cost and size of government; and

''Whereas, under the Clean Air Act Amendments of 1990 (P.L. 101–549), those states with areas that are classified as severe or extreme nonattainment areas are forced to adopt employee commute option and trip reduction laws; and

''Whereas, pursuant to the Clean Air Act, programs are being conducted by California air districts to clean the state's air through the imposition of onerous, burdensome, and costly regulations that require employers of companies having 100 or more employees to establish trip reduction plans; and

''Whereas, an example of the ineffectiveness and excessive cost of employer trip reduction plan regulations can be shown by the resultant failures of the South Coast Air Quality Management District's employer trip reduction plan requirement, Rule 1501, previously known as Regulation 15; and

''Whereas, since its implementation in 1988, Rule 1501 has contributed negligible benefits towards reducing or eliminating smog within the Los Angeles basin, while at the same time, this rule's compliance cost upon employers is estimated at anywhere between $136 million and $197 million annually, or, roughly, $3,000 for every car not driven to work, for a total of approximately $1 billion that Los Angeles basin employers have been forced to spend to comply with this rule; and

''Whereas, the South Coast Air Quality Management District Governing Board realizes that Rule 1501 is ineffective, expensive, and has fallen far short of the average vehicle ridership goals sought by the district pursuant to the Clean Air Act; and

''Whereas, it is obvious that the costs and effects of mandated employer trip reduction plans, such as Rule 1501, can be devastating to companies trying to remain economically competitive, and these policies do not justify the economic and social hardships that will occur in nonattainment areas if employer trip reduction mandates continue as part of the Clean Air Act; and

''Whereas, despite the fact that other avenues may be available to pursue the goals of the Clean Air Act without having to resort to mandated employer trip reduction plans, these alternatives cannot be legally pursued by states in lieu of existing employer trip reduction plan mandates unless Congress amends the Clean Air Act to reflect this intent; Now, therefore, be it

''*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact an amendment to the Clean Air Act that will eliminate the provisions mandating an employer trip reduction program in extreme and severe nonattainment areas and, instead, allow states to pursue practical and cost-effective alternatives towards solving their air quality problems; and be it further

''*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the Legislature of each of the other states.''

POM–460. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

''SENATE JOINT RESOLUTION NO. 5

''Whereas, the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) was enacted to encourage states to act appropriately to clean up the air in their own neighborhoods; and

''Whereas, the act, as recently amended (P.L. 101–549), has continued to deviate from the principle of establishing standards and allowing states to design specific actions to satisfy those standards and to rely more on the principle that Washington ''knows best''; and

''Whereas, the federal law now specifies detailed procedures and programs that the states must follow, including the requirement for specific types of smog check, and other similar programs; and

''Whereas, the State of California has been in the forefront of clean air activities, including the adoption of new vehicle emission standards, and possesses extensive experience and knowledge about programs and activities that are feasible and cost-effective and those that are not; and

''Whereas, the Clean Air Act has placed California at the mercy of federal bureaucrats to the extent that the state must negotiate with them on minute details, such as whether or not the smog inspection stations can be allowed to sell candy bars and other similar commodities; and

''Whereas, Congress has expressed a strong interest in reducing the role of the federal government by allowing states to manage their own affairs; and

''Whereas, there is a question regarding the efficacy of the science that the Environmental Protection Agency has used to diminish the relative effectiveness of alternative clean air strategies; Now, therefore, be it

''*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Clean Air Act to retain the clean air standards, including requirements to reduce emissions from mobile sources, but remove specific requirements such as vehicle inspection and maintenance, and to require the Environmental Protection Agency to reevaluate, using recent scientific, technological, and other environmental findings, the methodology and science used to measure both the inventory of emissions and the effectiveness of individual components of the state clean air plans for purposes of compliance with the broader goals of the Clean Air Act Amendments of 1990 (P.L. 101–549); and be it further

''*Resolved,* That the California Legislature will continue to pursue all feasible and cost-effective strategies that, as implemented, produce cleaner air for California's residents, and that those strategies will be pursued because doing so is good for the health and safety of the people of California and not because doing so is mandated by the United States Congress, the federal bureaucracy, or a federal judge; and be it further

''*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States.''

POM–461. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

''SENATE JOINT RESOLUTION NO. 18

''Whereas, the Home Office and Business Opportunities (HOBO) Association of California, an innovative grassroots organization recognized as one of the foremost leaders and advocates of homebased business issues statewide, is sponsoring a Homebased Business Week in the state; and

''Whereas, Homebased Business Week will build public awareness and advance the values of homebased business to California; and

''Whereas, Homebased Business Week will create and promote change, foster economic growth, increase employment, and support the desire for independence and self-reliance, while realizing the concerns for child care, the quality of home life, and the environment; and

''Whereas, Homebased Business Week will assist homebased businesses by providing educational and informational programs, forums, workshops, seminars, and conferences, which will aid in the establishment and development of homebased businesses all across California; and

''Whereas, Homebased Business Week will assist the growing number of homebased business owners in realizing their potential in finding the American dream; and

''Whereas, it would be of benefit to other states to observe Homebased Business Week nationally: Now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California, sharing these interests and concerns, hereby declares the week of September 25 through 29, 1995, as

Homebased Business Week in California; and be it further

''*Resolved,* That the Legislature further urges the President and Congress of the United States to declare the week of September 25 through 29, 1995, as Homebased Business Week nationally; and be it further

''*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor, and to the Home Office and Business Opportunities Association.

POM–462. A concurrent resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

''SENATE CONCURRENT RESOLUTION NO. 33

''Whereas, it was Japan that ultimately plunged the United States into World War II when on December 7, 1941, Japanese aircraft attacked without warning the United States Pacific Fleet at anchor in Pearl Harbor in Hawaii which propelled enraged Americans to arms; and

''Whereas, on December 8, 1941, within hours of the attack on Pearl Harbor, Japanese bombers struck the British colony of Hong Kong on the south coast of China and the two United States Islands of Guam and Wake in the Pacific Ocean; and

''Whereas, Japan's next target was the petroleum-rich Netherlands East Indies that were protected by Allied warships that were mauled by Japan's navy in February 1942 in the Battle of the Java Sea; and

''Whereas, only the conquest of the Philippines took longer than Japan expected when American and Philippine forces commanded by United States General Douglas MacArthur defended the islands and although suffering from malnutrition and disease, they beat back Japanese attacks for just over three months; and

''Whereas, on April 9, 1942, about 75,000 exhausted troops on Bataan surrendered to the Japanese and most of them were forced to march about 65 miles to prison camps and many prisoners died of disease and mistreatment during what became known as the Bataan Death March; and

''Whereas, three events in 1942 helped turn the tide against Japan, the first of these being the Doolittle Raid in which Lieutenant Colonel James H. Doolittle led 16 B–25 bombers in a daring bombing raid on the Japanese homeland that consisted of a surprise attack on Tokyo and other Japanese cities to show that Japan could be beaten; and

''Whereas, in May 1942 in the Battle of the Coral Sea, which was the first naval battle in which opposing ships never sighted one another and planes based on aircraft carriers did all the fighting, American warships halted the Japanese assault on Port Moresby on the south coast of New Guinea; and

''Whereas, in the Battle of Midway in June 1942, the United States cracked Japan's naval code and learned of Japan's coming invasion to capture Midway Island at the westernmost tip of the Hawaiian chain and the battle that ensued became the first clear Allied victory over Japan in World War II; and

''Whereas, the Allies developed two major campaigns against Japan in the South Pacific, one force under MacArthur that checked the Japanese on New Guinea and another force under Admiral Chester W. Nimitz that battled the Japanese in the Solomon Islands northeast of Australia that included the six-month battle for Allied control of the Island of Guadalcanal; and

''Whereas, superiority at sea and in the air enabled the Allies to close in on Japan in early 1945 and by then Japan had lost much of its empire, most of its aircraft and cargo ships, and nearly all of its warships and American B–29 bombers were pounding Japan's industries, and American submarines were sinking vital supplies headed for Japan; and

''Whereas, Japan's military leaders went on fighting even though they faced certain defeat; and

''Whereas, the Allies decided they needed more bases to step up the bombing campaign against Japan and chose the Japanese islands of Iwo Jima and Okinawa; and

''Whereas, in April 1945 the United States, Great Britain, and China issued a statement warning that Japan would be destroyed unless it surrendered unconditionally but in spite of the warning, Japan went on fighting; and

''Whereas, on August 6, 1945, an American B–29 bomber called the Enola Gay dropped the first atomic bomb used in warfare on the Japanese city of Hiroshima and after Japanese leaders failed to respond to the bombing, the United States dropped a larger bomb on Nagasaki on August 9, 1945.

''Whereas, on August 14, 1945, Japan agreed to end the war and on September 2, 1945, representatives of Japan signed the official statement of surrender aboard the United States battleship Missouri that lay at anchor in Tokyo Bay and representatives of all the Allied nations were present; and

''Whereas, President Truman declared September 2, 1945s as V–J Day or Victory over Japan Day and World War II had finally ended; Now, therefore, be it

''*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature does hereby proclaim September 2, 1995, as the 50th Anniversary of V–J Day and urges all Californians to join in ceremonies to commemorate this major historic event; and be it further

''*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Governor of California, and to each Senator and Representative from California in the Congress of the United States.''

POM–463. A concurrent resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary

''SENATE CONCURRENT RESOLUTION NO. 17

''Whereas, home should be a place of warmth, unconditional love, tranquility, and security; however, for many Americans, home is tainted with violence and fear; and

''Whereas, domestic violence is more than the occasional family dispute; and

''Whereas, according to the United States Department of Health and Human Services, domestic violence is the single largest cause of injury to American women, affecting six million women of all racial, cultural, and economic backgrounds; and

''Whereas, according to data published in 1993 by the Commonwealth Fund and a 1994 survey report by the United States Department of Justice, in the United States, a woman is battered every 15 seconds; 40 percent of female homicide victims in 1991 were killed by their husbands or boyfriends; and

''Whereas, more than half of the number of women in need of shelter from an abusive environment may be turned away from a shelter due to lack of space; and

''Whereas, women are not the only targets of domestic violence; young children, elderly persons, and men are also victims in their own homes; and

''Whereas, emotional scars are often permanent; and

''Whereas, a coalition of organizations has emerged to confront directly this crisis. Law enforcement agencies, domestic violence hotlines, battered women and children's shelters, health care providers, churches, and the volunteers that serve those entities are helping the effort to end domestic violence; and

''Whereas, it is important to recognize the compassion and dedication of the individuals involved in that effort, applaud their commitment, and increase public understanding of this significant problem; and

''Whereas, the first Day of Unity was celebrated in October 1981 and was sponsored by the National Coalition Against Domestic Violence (N.C.A.D.V.) for the purpose of uniting battered women's advocates across the nation in an effort to end domestic violence; and

''Whereas, that one day has grown into a month of activities at all levels of government, aimed at creating awareness about the problem and presenting solutions; and

''Whereas, the first Domestic Violence Awareness Month was proclaimed in October 1987: Now, therefore, be it

''*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims the month of October 1995 as Domestic Violence Awareness Month; and be it further

''*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the President of the United States, the Governor of the State of California, the Director of the United States Department of Health and Human Services, and to each Senator and Representative from California in the Congress of the United States.''

POM–464. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

''SENATE JOINT RESOLUTION NO. 24

''Whereas, the travel agent industry employs travel agents in this state, who derive a substantial amount of their earnings from the traditional 10-percent commission on airline ticket sales; and

''Whereas, virtually every major airline has imposed a limit on these sales commissions, so that airlines pay no more than $25 on one-way domestic tickets and $50 for round-trip tickets instead of the former commission of 10 percent of the cost of the ticket; and

''Whereas, the imposition of the commission limit is harming the travel agent industry, endangering jobs held primarily by women and single parents; and

''Whereas, a statewide job loss will have a negative impact on the state's budget, resulting in a decrease in formerly collected income taxes and an increase in state unemployment compensation expenditures; and

''Whereas, it has not yet been determined whether the airline industry's lockstep approach to cost savings through the imposition of a commission limit constitutes a violation of antitrust law: Now, therefore, be it

''*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Attorney General of the United States to conduct an investigation to determine if the airlines' imposition of a limit on the sales commissions of travel agents constitutes a violation of federal antitrust law; and be it further

''*Resolved,* That the Congress of the United States is respectfully urged to suspend the imposition of commission limits until the Attorney General has completed the investigation requested pursuant to this resolution; and be it further

''*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Attorney General of the United States, the Majority Leader of the United States Senate,

the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.''

POM–465. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs.

''SENATE JOINT RESOLUTION NO. 29

''Whereas, the 1.5 million Americans who served in the ''Forgotten War'' have waited too long to be recognized for their sacrifices; and

''Whereas, the 54,000 soldiers who made the ultimate sacrifice for democracy deserve our thanks and respect; and

''Whereas, the 8,168 Americans who remain missing-in-action should always remain in our memories; and

''Whereas, it is appropriate that the Veterans of the Korean War be commemorated for their heroic efforts in that struggle for democracy; and

''Whereas, in October 1986, Congress passed legislation authorizing the American Battle Monuments Commission to establish a memorial on federal land in or near Washington, D.C. to honor the military personnel who served in the Korean War; and

''Whereas, in October 1986, President Ronald Reagan signed into law a measure authorizing the establishment of the Korean War Memorial in Washington, D.C., and Congress earmarked $1 million, to be repaid to the federal government, to start the project originally estimated to cost $5 million; and

''Whereas, on June 14, 1992, President George Bush broke ground for the Korean War Memorial, on a 2.2-acre plot on the National Mall on a plot of former marshlands at the foot of the Lincoln Memorial; and

''Whereas, on August 17, 1995, the President and South Korean President Kim Young-Sam, joined by ambassadors from the 21 nations that supported the United Nations resolution opposing North Korea's invasion of South Korea, dedicated the Korean War Memorial in Washington, D.C.; and

''Whereas, the memorial consists of 19 seven-foot-tall statues of roughened stainless steel with a dark patina weighing nearly 1,000 pounds each, depicting American soldiers advancing toward the American Flag; and

''Whereas, the memorial represents all of the services that fought in the war: 14 Army infantrymen, three Marines, one Navy medic, and one Air Force forward observer; and

''Whereas, the memorial includes a 164-foot long, eight-foot thick, polished granite wall weighing over 100 tons; and

''Whereas, the wall is made of ''academy black'' granite from California, and contains over 2,500 images representing the land, sea, and air troops; and

''Whereas, the memorial includes a highly reflective black granite reflecting pool; and

''Whereas, Ray Davis, a retired Marine Corps general and Chairman of the Korean War Veterans Memorial Dedication Foundation stated that establishment of the memorial will be ''a positive, uplifting, permanent kind of memorial. It will not age in that visitors see there, in almost perfect form, those that served the cause of freedom''; and

''Whereas, California commends these and other efforts to commemorate and place in a proper place of honor, a memorial to the great sacrifices that were made by those who fought for freedom and democracy during this heretofore ''forgotten war''; Now therefore be it

''*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California commemorates those who fought in the Korean War, and applauds the President and the Congress of the United States, the Korean War Veterans Memorial Dedication Foundation, and others who supported this effort for their accomplishments in making the Washington, D.C. Korean War Memorial a reality; and be it further

''*Resolved,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take further action, as appropriate, to ensure that the Korean War does not again become a ''forgotten war''; and be it further

''*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Korean War Veterans Memorial Dedication Foundation, and a suitably prepared copy to the author for distribution, as appropriate.''

REPORTS OF COMMITTEES

The following reports of committees were submitted on October 25, 1995:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1097: A bill to designate the Federal building located at 1550 Dewey Avenue, Baker City, Oregon, as the ''David J. Wheeler Federal Building'', and for other purposes.

The following reports of committees were submitted on October 26, 1995:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 848. A bill to grant the consent of Congress to an amendment of the Historic Chattahoochee Compact between the States of Alabama and Georgia.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs: John A. Knubel, of Maryland, to be Chief Financial Officer, Department of Housing and Urban Development.

Kevin G. Chavers, of Pennsylvania, to be President, Government National Mortgage Association.

Hal C. DeCell III, of Mississippi, to be an Assistant Secretary of Housing and Urban Development.

Norman S. Johnson, of Utah, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1999.

Albert James Dwoskin, of Virginia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1995.

Joseph H. Neely, of Mississippi, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of six years.

Alicia Haydock Munnell, of Massachusetts, to be a Member of the Council of Economic Advisers.

Dwight P. Robinson, of Michigan, to be Deputy Secretary of Housing and Urban Development.

Isaac C. Hunt, Jr., of Ohio, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2000.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on the Judiciary:

Juan Abran DeHerrera, of Wyoming, to be United States Marshal for the District of Wyoming for the term of four years.

John R. Tunheim, of Minnesota, to be United States District Judge for the District of Minnesota.

Barry Ted Moskowitz, of California, to be United States District Judge for the Southern District of California vice a new position created by Public Law 101–650, approved December 1, 1990.

Stephen M. Orlofsky, of New Jersey, to be United States District Judge for the District of New Jersey.

Susan J. Dlott, of Ohio, to be United States District Judge for the Southern District of Ohio.

R. Guy Cole, Jr., of Ohio, to be United States Circuit Judge for the Sixth Circuit.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KEMPTHORNE (for himself, Mr. WARNER, Mr. FAIRCLOTH, Mr. INHOFE, Mr. THOMAS, Mr. MCCONNELL, Mr. CRAIG, Mr. BENNETT, Mr. BURNS, and Mr. COCHRAN):

S. 1364. A bill to reauthorize and amend the Endangered Species Act of 1973, and for other purposes; to the Committee on Environment and Public Works.

S. 1365. A bill to provide Federal tax incentives to owners of environmentally sensitive lands to enter into conservation easements for the protection of endangered species habitat, and for other purposes; to the Committee on Finance.

By Mr. KEMPTHORNE (for himself, Mr. CHAFEE, Mr. WARNER, Mr. FAIRCLOTH, Mr. INHOFE, Mr. THOMAS, Mr. MCCONNELL, Mr. CRAIG, Mr. BENNETT, Mr. BURNS, and Mr. COCHRAN):

S. 1366. A bill to amend the Internal Revenue Code of 1986 to allow a deduction from the gross estate of a decedent in an amount equal to the value of real property subject to an endangered species conservation agreement; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KEMPTHORNE (for himself, Mr. WARNER, Mr. FAIRCLOTH, Mr. INHOFE, Mr. THOMAS, Mr. MCCONNELL, Mr. CRAIG, Mr. BENNETT, Mr. BURNS, and Mr. COCHRAN):

S. 1364. A bill to reauthorize and amend the Endangered Species Act of 1973, and for other purposes; to the Committee on Environment and Public Works.

THE ENDANGERED SPECIES CONSERVATION ACT

• Mr. KEMPTHORNE. Mr. President, today I introduced a bill that I believe will restore Americans' faith and confidence in the Government's ability to

protect the environment and our future.

I am talking about reform of the Endangered Species Act, first enacted in 1973. If we do nothing, the act will collapse under the weight of regulation and inefficiencies.

Everyone I speak with considers themselves an environmentalist, and I believe they are right. We all want a future for our children. We only have one planet, and we must do all we can to protect it and the species living on it.

We can all agree with the goals of the act—identify species and habitat in danger of extinction and try to reverse the process for those that we can. Unfortunately, many Americans have come to destruct the act and its bureaucracy. We need to restore a balance in order to allow the act to work.

That is why I am introducing my Endangered Species Conservation Act today. I consider myself a probusiness environmentalist. Some may think that is an oxymoron, but I do not believe so. Here is why: Without a healthy economy, we will not have the resources needed to conserve the rare species among us.

How can we have both?

My Drinking Water, Fisheries, and Wildlife Subcommittee held extensive hearings on the act this spring and summer. We held hearings in Washington, DC, Idaho, Oregon, and Wyoming.

In those hearings, some common themes emerged. First, almost everyone agreed it is time to reform the Endangered Species Act.

We heard that from almost everyone, from the unemployed timber worker in Idaho to the Secretary of the Interior. And I intend with this bill to bring about the meaningful and substantial reform to the act that everyone has asked for.

While all of us agree on the general goals of the Endangered Species Act, the message that we received at our hearings is that the ESA is too much regulation, too much Federal control, and too much Government. That message has come through loud and clear. People who have to live with the ESA are angry with how the Government uses it against them. The ESA relies too often on untested science, bureaucratic delays, and excludes State and local government from decisions that affect their own people, and threatens private property rights.

An example of this is the case in Idaho, where a Federal judge threatened to shut down all activities in six national forests. The loggers, miners, ranchers, businessowners, and the thousands of jobs they provide were at risk because Federal agencies were not talking to each other.

We must bring balance back to the process of saving rare and threatened species. This is not just an issue in my home State of Idaho or elsewhere in the West. Indeed, the Endangered Species Act has implications in the Northeast, where the Atlantic Salmon remains a concern, the Southwest with the Mexican Spotted Owl, the Red Cockaded Woodpecker in the Southeast, and the Midwest's whooping cranes. Nearly every American has a stake in this debate, and I believe, Mr. President, that nearly every American will understand the reasons why my bill will be better for people, species, and the environment.

The said truth is that since 1973, only a handful of species have been successfully removed from the endangered species list. Yet despite our efforts to document the cost, untold millions of dollars have been spent in the effort. We need a bill that works better, more effectively, and actually accomplishes what that original 1973 law intended to do.

I believe this bill will do that by allowing science to take its proper place in the debate. Science, not political science, should determine whether a species is at risk of extinction. Right now, it is the other way around, with a political decision made first on a species and then the necessary data found to justify that decision. Science should provide options for public policymakers. Until we use science to allow us to make the best public policy decisions, and until we openly move into the political arena and discuss the competing concerns facing our country, we never will be able place our society's priorities in balance.

I believe that is where Congress has abdicated its responsibilities. Congress tells Federal agencies to go out and make the ESA work, but often the only tools those agencies have are the blunt instrument of regulation.

Examples like the 29 homes lost to fire in southern California because homeowners couldn't cut fire lines due to ESA regulations have eroded public confidence in the act, and have made them openly skeptical of its goals. I doubt whether many Americans will make the Stephens' Kangaroo Rat a priority over those 29 homes. Under the ESCA we would find a way to protect both the Stephens' Kangaroo Rat and the private property rights of the 29 homeowners.

In this manner this legislation restores the balance to the equation and allows for a healthy economy, vibrant communities, better species protection, and hope for our children's futures. It makes the Endangered Species Act actually work better and stronger and is good reform. If we do nothing, public opposition to how the act has been implemented will cause it to fail altogether. I do not think anyone here wants that to happen.

Let me go over the major provisions of the ESCA: This bill effectively separates science from politics; it is designed to actually conserve species while recognizing the rights of private property owners; the current act's mandate to recover every species regardless of cost or consequence is changed to allow us to prioritize our Nation's needs and to conserve species in the process; the ESCA involves State and local governments in the conservation process and treats them as equals; we remove bureaucratic delays that destroy the relationship between property owners and Government; this bill provides incentives to encourage the protection of endangered and threatened species; it makes all Federal agencies partners, instead of adversaries, in the conservation of species.

This bill introduces several innovations and new ideas that I think are crucial to bringing balance to the act. First, we recognize the progress science has made in genetics. Genetics are not even mentioned in the 1973 act. In the ESCA we recognize genetics as a measure of species distinctness. And, as requested by the scientists, we protect the biological species and genetically distinct populations and subspecies.

Whether a species should be listed is measured in human generations, because I believe we must look to our children's future, and how we can provide for them. Is this sound science? I believe so because population biologists tell me they can now make such forecasts within those bounds.

The fact remains we are spending millions of dollars now and putting jobs and communities at risk with no clear policy, priorities, or ability to measure results. We must acknowledge that extinction is a natural phenomenon over which man has limited control. Today we have an opportunity to reform the Endangered Species Act to do a better job of preventing the increasing loss of species. Congress must take a forceful step in this area, because we can't afford to let the courts distort our good intentions.

I do not expect this bill to be embraced by those in our country who view this issue only from the extremes. But extremists get very little accomplished. I contend that extremists probably deserve each other and ought to be on some remote island where they have to help each other. The balance between people and our natural world can only be maintained with a partnership—a partnership brought about by legislation like this.

If we do nothing, and do not work together, and if we continue to rely solely on regulation instead of incentives we will fail. That is something we cannot allow for our present and for our childrens' future.●

● Mr. BURNS. Mr. President, I am pleased to be a cosponsor of the Endangered Species Conservation Act [ESCA] introduced by Senator KEMPTHORNE.

The Endangered Species Act [ESA] has been misused and twisted from its original intent, and I believe the bill we are introducing today puts us back on track.

Montana's largest industry is agriculture. If you asked Montana's farmers and ranchers what law they want Congress to fix, most will say the Endangered Species Act. The wood products industry represents almost half of

western Montana's economy. If you ask the folks who make a living in the woods what law is currently infringing on their ability to make a living for their families, they'll tell you about grizzly bears and road closures—once again coming back to the Endangered Species Act.

There is no doubt that we must reform the ESA. It is the single most restrictive law that Montanans and other American who rely on the land to make a living, must deal with. The communities in Montana lack the economic stability and predictability they deserve. The current law has many communities in Montana and throughout our Nation living on pins and needles. The bottom line is communities are hurting.

We need to change the ESA so that it truly protects and recovers species, won't cost millions of dollars per species, and will protect private propertyowners' rights. The bill we're introducing today accomplishes these goals.

Emphasis must to placed on recovery. The current law emphasizes the listing of species instead of protecting and recovering species. In order to do this, the Endangered Species Conservation Act contains the following principles:

First, as I stated earlier, above all we must concentrate our efforts on recovery plans. If we do so, we would focus on the least costly alternative and we would assess the impacts of decisions made under the act for State and local economics. In addition, this would force priorities to be set and would generate recovery plans which are reasonable and obtainable.

Second, the ESCA bill we've introduced today recognizes that a one-size-fits-all recovery standard is flawed. The ESCA establishes standards for prioritizing where Federal dollars should be spent and what level of conservation will be sought.

Finally, it also ensures decisions are based on better science. Peer review procedures need to be added to improve the overall data collected so that the right decisions are made. We must have three decisions made outside of politics and instead done by objective individuals who have a background in science. The bill establishes an Endangered Species Commission which will ensure sound science, not politics, drives our decisions.

The best decisions are those made at the local level, and I believe we need increased private participation in our conservation efforts. The fact is, local individuals are the best people to support any conservation plan. They work and live in the areas affected, and they have a stake in what happens in their own backyards.

Washington should not forget, these people want to maintain the quality of life they have for their families. The ESCA encourages cooperative management agreements for non-Federal efforts and other incentives for private land owners. These include deferment of estate taxes where conservation easements are in place, technical assistance, and cost sharing.

Without a doubt, compensation must be given to individuals who lose the use of their private property under a Federal Government conservation plan. Our Constitution and property rights need protection on every front. Anything short of that is selling our constitutional rights down the river. I am pleased that the ESCA contains a provision to protect our private property rights.

The Endangered Species Act has a good goal. However, since it became law, it has been twisted and misused for other purposes. We need some common sense put back into recovering species. Starting from a new view point, and crafting an act which truly reflects what we want to do—conserve and recover species—has to be the focus. We can't let the existing law and regulations run multiple use off our lands.

Reforming the Endangered Species Act is essential to Montana's economy. Our four largest industries—agriculture, timber, mining, and oil and gas rely on the use of land. And it's these industries which supply the jobs and the tax base for Montana. Changing the laws on conserving and recovering endangered species is important for jobs for Montanans, and it is important for sound land management activities.

The Endangered Species Conservation Act is a good bill and I hope the Senate will act quickly in considering this important issue.●

ADDITIONAL COSPONSORS

S. 228

At the request of Mr. BRYAN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 228, a bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress and Congressional employees for retirement purposes.

S. 650

At the request of Mr. SHELBY, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

S. 678

At the request of Mr. AKAKA, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 678, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes.

S. 690

At the request of Mr. AKAKA, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 690, a bill to amend the Federal Noxious Weed Act of 1974 and the Terminal Inspection Act to improve the exclusion, eradication, and control of noxious weeds and plants, plant products, plant pests, animals, and other organisms within and into the United States, and for other purposes.

S. 878

At the request of Mr. COCHRAN, the name of the Senator from Ohio [Mr. DEWINE] was withdrawn as a cosponsor of S. 878, a bill to amend the Internal Revenue Code of 1986 to reduce mandatory premiums to the United Mine Workers of America Combined Benefit Fund by certain surplus amounts in the Fund, and for other purposes.

S. 881

At the request of Mr. PRYOR, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Oklahoma [Mr. INHOFE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 1200

At the request of Ms. SNOWE, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 1200, a bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus.

SENATE CONCURRENT RESOLUTION 11

At the request of Ms. SNOWE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Concurrent Resolution 11, a concurrent resolution supporting a resolution to the long-standing dispute regarding Cyprus.

AMENDMENTS SUBMITTED

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

KENNEDY (AND OTHERS) AMENDMENT NO. 2959

Mr. KENNEDY (for himself, Mr. SIMON, Mr. PELL, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. WELLSTONE, Mrs. FEINSTEIN, Mrs. MURRAY, Mr. KOHL, Mr. BAUCUS, Mr. BINGAMAN, and Mr. FORD) proposed an amendment to the bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; as follows:

On page 1409, beginning with line 8, strike all through page 1410, line 25.

On page 1421, beginning with line 15, strike all through page 1423, line 13.

On page 1424, beginning with line 2, strike all through page 1425, line 16.

Strike chapter 3 of subtitle B of title XII.

HUTCHISON (AND OTHERS) AMENDMENT NO. 2960

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill S. 1357, supra; as follows:

At the appropriate place, insert the following:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the Former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of ''ethnic cleansing'' persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The UN spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that ''girls as young as 17 are reported to have been taken into wooded areas and raped.'' Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crime Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as ''prima facie evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal.''

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of ''50 Years After Nuremburg'' on October 16, 1995, President Clinton cited the ''excellent progress'' of the War Crimes Tribunal for the former Yugoslavia and said, ''Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable.''

(10) President Clinton also observed on October 16, 1995, ''some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzogovenia.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, and with the President clearly indicating his willingness to send American forces into the heart of this conflict, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzogovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) the United States should ensure that any negotiated peace agreements in former Yugoslavia, particularly with respect to Bosnia, require all states of the former Yugoslavia to corporate fully with the War Crimes Tribunal and apprehend and turn over for trial any indicated persons found in their territories.

(8) ethnic cleansing by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

BAUCUS AMENDMENT NO. 2961

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1357, supra; as follows:

Strike section 1105(4)(B)(iii).

KASSEBAUM (AND OTHERS) AMENDMENT NO. 2962

Mrs. KASSEBAUM (for herself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, Mr. GORTON, Mr. PRESSLER, Mr. ROTH, Mr. DOMENICI, Mr. STEVENS, Mr. SPECTER, Mr. COHEN, Mr. CHAFEE, and Mr. BAUCUS) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1421, beginning with line 15, strike all through page 1423, line 13.

On page 1424, beginning with line 2, strike all through page 1426, line 9.

BREAUX (AND KERRY) AMENDMENT NO. 2963

Mr. BREAUX (for himself and Mr. KERRY) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1469, beginning on line 2, strike all through page 1471, line 20, and insert the following:

SEC. 12001. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

''SEC. 35. CHILD TAX CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by paragraph (1) for a taxable year shall not exceed the sum of—

''(A) the tax imposed by this subtitle for the taxable year (reduced by the credits allowable against such tax other than the credit allowable under section 32), and

''(B) the taxes imposed by sections 3101 and 3201(a) and 50 percent of the taxes imposed by sections 1401 and 3211(a) for such taxable year.

''(b) ADJUSTED GROSS INCOME LIMITATION.—The aggregate amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by 20 percent for each $3,000 by which the taxpayer's adjusted gross income exceeds $60,000.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means any individual if—

''(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

''(B) such individual has not attained the age of 16 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

''(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(d) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 32 shall apply for purposes of this section.''

(c) CONFORMING AMENDMENT.—The table of sections for such subpart C is amended by striking the item relating to section 35 and inserting the following new items:

''Sec. 35. Child tax credit.

''Sec. 36. Overpayments of tax.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

MCCAIN (AND OTHERS) AMENDMENT NO. 2964

Mr. MCCAIN (for himself, Mr. DOLE, Mr. COATS, and Mr. NICKLES) proposed an amendment to the bill S. 1357, supra; as follows:

At the appropriate place in the Act, add the following:

SEC. . SENSE OF THE SENATE.—The Senate finds that—

(a) The Senate has held hearings on the social security earnings limit in 1994 and 1995 and the House has held two hearings on the social security earnings limit in 1995;

(b) The Senate has overwhelmingly passed Sense of the Senate language calling for substantial reform of the social security earnings limit;

(c) The House of Representatives has overwhelmingly passed legislation to raise the exempt amount under the social security earnings limit three times, in 1989, 1992, and 1995;

(d) Such legislation is a key provision of the Contract with America;

(e) The President in his 1992 campaign document ''Putting People First'' pledged to lift the social security earnings limit;

(f) The social security earnings limit is a depression-era relic that unfairly punishes working seniors; therefore,

(g) It is the intent of the Congress that legislation will be passed before the end of 1995 to raise the social security earnings limit for working seniors aged 65 through 69 in a manner which will ensure the financial integrity of the social security trust funds and will be consistent with the goal of achieving a balanced budget in 7 years.

HELMS AMENDMENT NO. 2965

Mr. HELMS proposed an amendment to the bill S. 1357, supra; as follows:

On page 461, line 13, after the period, insert the following:

''(3) POINT-OF-SERVICE COVERAGE.—If a Medicare Choice sponsor offers a Medicare Choice plan that limits benefits to items and services furnished only by providers in a network of providers which have entered into a contract with the sponsors, the sponsor must also offer at the time of enrollment, a Medicare Choice plan that permits payment to be made under the plan for covered items and services when obtained out-of-network by the individual.''

CAMPBELL (AND BROWN) AMENDMENTS NOS. 2966–2967

(Ordered to lie on the table.)

Mr. CAMPBELL (for himself and Mr. BROWN) submitted two amendments intended to be proposed by them to the bill S. 1357, supra; as follows:

AMENDMENT NO. 2966

Beginning on page 178, strike out line 3 and all that follows through the end of the matter between lines 7 and 8 on page 178, and insert in lieu thereof the following:

''§ 7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills)

''(a) STUDY OF FUTURE OF PETROLEUM RESERVES.—(1) The Secretary of Energy shall conduct a study to determine which of the following options, or combination of options, would maximize the value of the naval petroleum reserves to or for the United States:

''(A) Transfer of all or a part of the naval petroleum reserves to the jurisdiction of the Department of the Interior for leasing in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and surface management in accordance with the Federal Land Policy and Management Act (43 U.S.C.1701 et seq.).

''(B) Sale of the interest of the United States in the naval petroleum reserves.

''(2) The Secretary shall retain such independent consultants as the Secretary considers appropriate to conduct the study.

''(3) An examination of the value to be derived by the United States from the transfer or sale of the naval petroleum reserves under paragraph (1) shall include an assessment and estimate, in a manner consistent with customary property valuation practices in the oil and gas industry, of the fair market value of the interest of the United States in the naval petroleum reserves.

''(4) Not later than June 1, 1996, the Secretary shall submit to Congress and make available to the public a report describing the results of the study and containing such recommendations as the Secretary considers appropriate to implement the option, or combination of options, identified in the study that would maximize the value of the naval petroleum reserves to or for the United States.

''(b) IMPLEMENTATION OF RECOMMENDATIONS.—(1) Not earlier than 31 days after submitting to Congress the report required under subsection (a)(4), and not later than September 30, 1997, the naval petroleum reserves (other than Naval Petroleum Reserve Numbered 1) shall be leased as described in subparagraph (A) of subsection (a)(1) or sold as described in subparagraph (B) of such subsection.

''(2) The Secretary shall use for carrying out this section such amounts of the unobligated balances of funds available to the Department of Energy as are necessary to carry out this section.

''(c) ADMINISTRATION OF A SALE.—(1) Except as provided in paragraph (2), subsections (c), (d), (h), (i), (j), (k), (l), (m), and (n) of section 7421a of this title shall apply to any sale of the naval petroleum reserves under subsection (b) as if the reference to Naval Petroleum Reserve Numbered 1 in those subsections of such section 7421a referred to the naval petroleum reserves.

''(2)(A) The time requirements set forth in subsection (c) of section 7421a of this title do not apply under paragraph (1) to the sale of the naval petroleum reserves under this section.

''(B) In the application of subsection (d) of section 7421a of this title under paragraph (1), the reference in that subsection to subsection (e) of such section does not apply.

''(C) In the application of subsections (j) and (k) of section 7421a of this to the sale of the naval petroleum reserves under paragraph (1), 'joint resolution of approval' means only a joint resolution that is introduced after the date on which the notification to which the joint resolution relates is received by Congress, and—

''(i) that does not have a preamble;

''(ii) the matter after the resolving clause of which reads only as follows: 'That Congress approves the proposed sale of naval petroleum reserves reported in the notification submitted to Congress by the Secretary of Energy on _____.' (the blank space being filled in with the appropriate date); and

''(iii) the title of which is as follows: 'Joint resolution approving the sale of naval petroleum reserves'.

''(D) In the application of subsection (l) of section 7421a of this title to the sale of the naval petroleum reserves under paragraph (1), the period referred in that subsection shall be deemed to be the two-year period beginning on the date of the enactment of the Balanced Budget Reconciliation Act of 1995.

''(d) INAPPLICABILITY TO NAVAL PETROLEUM RESERVE NUMBERED 1.—This section does not apply to Naval Petroleum Reserve Numbered 1, as defined in section 7421a(a)(2)(A) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7421 the following:

''7421a. Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills).

''7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills).''.

AMENDMENT NO. 2968

Beginning on page 178, strike out line 3 and all that follows through the end of the matter between lines 7 and 8 on page 178, and insert in lieu thereof the following:

''§ 7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills)

''(a) STUDY OF FUTURE OF PETROLEUM RESERVES.—(1) The Secretary of Energy shall conduct a study to determine which of the following options, or combination of options, would maximize the value of the naval petroleum reserves to or for the United States:

''(A) Transfer of all or a part of the naval petroleum reserves to the jurisdiction of the Department of the Interior for leasing in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and surface management in accordance with the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

''(B) Sale of the interest of the United States in the naval petroleum reserves.

''(2) The Secretary shall retain such independent consultants as the Secretary considers appropriate to conduct the study.

''(3) An examination of the value to be derived by the United States from the transfer or sale of the naval petroleum reserves under paragraph (1) shall include an assessment and estimate, in a manner consistent with customary property valuation practices in the oil and gas industry, of the fair market value of the interest of the United States in the naval petroleum reserves.

''(4) Not later than June 1, 1996, the Secretary shall submit to Congress and make available to the public a report describing the results of the study and containing such recommendations as the Secretary considers appropriate to implement the option, or combination of options, identified in the study that would maximize the value of the naval petroleum reserves to or for the United States.

''(b) IMPLEMENTATION OF RECOMMENDATIONS.—(1) Not earlier than 31 days after submitting to Congress the report required under subsection (a)(4), and not later than September 30, 1997, the naval petroleum reserves (other than Naval Petroleum Reserve Numbered 1) shall be leased as described in subparagraph (A) of subsection (a)(1) or sold as described in subparagraph (B) of such subsection.

''(2) The Secretary shall use for carrying out this section such amounts of the unobligated balances of funds available to the Department of Energy as are necessary to carry out this section.

''(c) ADMINISTRATION OF A SALE.—(1) Except as provided in paragraph (2), subsections (c), (d), (h), (i), (j), (k), (l), (m), and (n) of section 7421a of this title shall apply to any sale of the naval petroleum reserves under subsection (b) as if the reference to Naval Petroleum Reserve Numbered 1 in those subsections of such section 7421a referred to the naval petroleum reserves.

''(2)(A) The time requirements set forth in subsection (c) of section 7421a of this title do not apply under paragraph (1) to the sale of the naval petroleum reserves under this section.

''(B) In the application of subsection (d) of section 7421a of this title under paragraph (1), the reference in that subsection to subsection (e) of such section does not apply.

''(C) In the application of subsections (j) and (k) of section 7421a of this to the sale of the naval petroleum reserves under paragraph (1), 'joint resolution of approval' means only a joint resolution that is introduced after the date on which the notification to which the joint resolution relates is received by Congress, and—

''(i) that does not have a preamble;

''(ii) the matter after the resolving clause of which reads only as follows: 'That Congress approves the proposed sale of naval petroleum reserves reported in the notification submitted to Congress by the Secretary of Energy on _____.' (the blank space being filled in with the appropriate date); and

''(iii) the title of which is as follows: 'Joint resolution approving the sale of naval petroleum reserves'.

''(D) In the application of subsection (l) of section 7421a of this title to the sale of the naval petroleum reserves under paragraph (1), the period referred in that subsection shall be deemed to be the two-year period beginning on the date of the enactment of the Balanced Budget Reconciliation Act of 1995.

''(d) INAPPLICABILITY TO NAVAL PETROLEUM RESERVE NUMBERED 1.—This section does not apply to Naval Petroleum Reserve Numbered 1, as defined in section 7421a(a)(2)(A) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7421 the following:

''7421a. Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills).

''7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills).''.

MCCAIN AMENDMENT NO. 2968

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1357, supra; as follows:

On page 696, between lines 8 and 9, insert the following:

SEC. 7116A. MEDICARE WHISTLEBLOWER INCENTIVE.

(a) PURPOSE.—The purpose of this section is to—

(1) reduce and eliminate fraud and abuse under the medicare program;

(2) reduce negligent and fraudulent medicare billings by providers;

(3) provide medicare beneficiaries with incentives to report inappropriate billing practices; and

(4) provide savings to the medicare trust funds by increasing the recovery of medicare overpayments.

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Section 1128A (42 U.S.C. 1320a–7a), as amended by section 7131(a)(4), is further amended by adding at the end the following new subsection:

''(n) WRITTEN REQUEST FOR ITEMIZED BILL.—

''(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

''(2) 30-DAY PERIOD TO RECEIVE BILL.—

''(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

''(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

''(3) REVIEW OF ITEMIZED BILL.—

''(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

''(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

''(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

''(ii) any other billing irregularity (including duplicate billing).

''(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under title XVIII.

''(5) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).

''(6) INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—If the fiscal intermediary or carrier recovers amounts in accordance with paragraph (5), the Secretary shall make an incentive payment (in an amount determined under subparagraph (B)) to the beneficiary who submitted the request for the itemized bill under paragraph (1) that resulted in such recovery. No incentive payment shall be made under this subparagraph unless such recovery is made after a final determination on whether such recovered amounts are required to be repaid by the provider.

''(B) INCENTIVE PAYMENT DETERMINED.—

''(i) IN GENERAL.—The amount of the incentive payment determined under this subparagraph is equal to the lesser of—

''(I) 1 percent of the amount that the bill overcharged for medical or other items or services; or

''(II) $10,000.

''(ii) LIMITATION OF AMOUNT.—The amount determined under this subparagraph may not exceed the total amounts recovered with respect to the bill in accordance with paragraph (5).

''(7) PREVENTION OF ABUSE BY BENEFICIARIES.—The Secretary shall—

''(A) address abuses of the incentive system established under this subsection; and

''(B) establish appropriate procedures to prevent such abuses.

''(8) REQUIREMENT THAT BENEFICIARY DISCOVER INACCURATE BILL TO RECEIVE INCENTIVE PAYMENT.—No incentive payment shall be made under paragraph (6) to a beneficiary if the Secretary or the appropriate fiscal intermediary or carrier identified the bill that was the subject of the beneficiary's request for review under this subsection as being overpaid prior to such request.''.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after January 1, 1996.

● Mr. MCCAIN. Mr. President, earlier this session, I introduced S. 1325, the Medicare Whistleblower Act of 1995, to reduce provider fraud and abuse in the Medicare Program. The amendment I am submitting today improves upon that bill, and provides a strong incentive for beneficiaries to identify overpayments made by Medicare. An Abraham amendment which passed today, and which I supported, takes a similar approach to achieve this same objective. However, my amendment is preferable because it specifically delineates the whistleblower reward process and does not give the Secretary of HHS discretion not to make incentive payments. I hope that the conferees will adopt this amendment.

At Medicare town meetings throughout Arizona, I have heard over and over from senior citizens that the Medicare Program is rampant with inaccurate billings. They have told me, based on their personal experiences, that their Medicare bills frequently include services that they have not received, double billings for the same service, or charges that are disproportionate to the value of services received. Often, they have no idea what Medicare is being billed for on their behalf, and they are not able to obtain explanations from providers.

The perceptions of Medicare beneficiaries are confirmed by more systematic analyses. The General Accounting Office has estimated that fraud and abuse in our Nation's health care system costs taxpayers as much as $100 billion each year. Medicare fraud alone costs about $17 billion per year, which is 10 percent of the program's costs. A report by the Republican staff of the Senate Committee on Aging has documented a broad array of fraudulent activities, including false claims for services that were supposed to have been rendered after the beneficiaries had died.

The Medicare Program has many problems. A fundamental problem, and the source of many other problems, is that too few people are adequately concerned about its costs because the Government is paying most of the bills. One constituent informed me of a situation in which his provider double-billed for the same service and told him not to worry about it because Medicare is paying. This is an outrage and must be stopped. When Medicare overpays, we all overpay, and costs to beneficiaries and other taxpayers spiral.

This amendment addresses this fundamental problem of the Medicare Program. It gives beneficiaries an added incentive to carefully scrutinize their bills and to actively pursue corrections when they believe that there has been inappropriate billing of Medicare. In particular, beneficiaries would be financially rewarded if they uncover negligence or fraud to the benefit of us all. Although such provider fraud is not the entire problem, and there is other legislation that I support which also addresses beneficiary fraud, studies

clearly indicate that provider fraud is most prevalent and the greatest concern.

The major problem with our current approach to detecting Medicare fraud is that it relies primarily upon bureaucrats who have no firsthand knowledge of what services were provided to a beneficiary and who have extremely limited time and resources to investigate. This approach can be expected to discover only the most apparent fraudulent activities. To discover most fraud, we must obtain the full cooperation of those who know what occurred at providers' offices and who have the time to pursue fraud—the beneficiaries. All they need is the ability and incentive to scrutinize their bills and actively correct inaccuracies.

Under this amendment, beneficiaries would have a right to receive in writing from their providers, within 30 days of when their request is received, an itemized bill for Medicare services provided to them. The beneficiary would then have 90 days to raise specific allegations of inappropriate billings to Medicare. The Medicare intermediaries and carriers would then have to review the bills and determine whether an overpayment has been made which must be reimbursed to the Medicare program. The beneficiary would receive a reward of 1 percent of the overpayment reimbursed up to $10,000. Because these rewards would be paid directly out of the overpayments, they would not increase costs to the Federal Government.

There are several important safeguards built into this legislation. The Secretary would be required to establish appropriate procedures to ensure that the incentive system is not abused by overzealous beneficiaries. An incentive payment would be awarded only to the extent that HCFA is able to recover the overpayment from the provider, and there would be no incentive payment if HCFA can demonstrate that it—for its Medicare intermediary or carrier—has identified the overpayment prior to receiving the beneficiary's complaint.

Some will argue that many seniors and other beneficiaries do not need personal rewards for fighting fraud, and in any event, this is a matter of national duty. While I agree with this contention, I also recognize that these individuals would not be able to identify and report fraud without having access to the itemized bills that this legislation provides. Moreover, I see nothing wrong with giving beneficiaries an added financial incentive. After all, we pay Federal employees for ideas that save the taxpayers money, and we pay private citizens for identifying fraud by defense contractors.

Mr. President, there is no inconsistency between this amendment and the Abraham amendment which passed today. Their objectives are entirely compatible. However, the Abraham amendment effectively delegates responsibility for planning the whistleblower program to the Secretary of HHS. I strongly believe that we should fulfill our legislative responsibility by specifying the parameters of this important antifraud program. Otherwise, we should not be surprised if we end up with something that we had not contemplated and which does not satisfy our objective.

Mr. President, I will not request a vote on this amendment, because we have already had a vote on the Abraham amendment. However, for the reasons that I outlined, I hope that the conferees will agree that this is a preferable whistleblower provision and that they will adopt it in the conference report. In so doing, I believe that the conferees should retain the provisions of the Abraham amendment that reward individuals for ideas that improve Medicare.●

BROWN (AND OTHERS) AMENDMENT NO. 2969

Mr. BROWN (for himself, Mr. ABRAHAM, Mr. SANTORUM, Mr. MCCAIN, and Mr. CRAIG) proposed an amendment to the bill S. 1357, supra; as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. . $1,000,000 COMPENSATION DEDUCTION LIMIT EXTENDED TO ALL EMPLOYEES OF ALL CORPORATIONS.

(a) IN GENERAL.—Section 162(m) is amended—

(1) by striking ''publicly held corporation'' in paragraph (1) and inserting ''taxpayer (other than personal service corporations)'',

(2) by striking ''covered employee'' each place it appears in paragraphs (1) and (4) and inserting ''employee'', and

(3) by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995, except that there shall not be taken into account with respect to any employee to whom section 162(m) of the Internal Revenue Code of 1986 applies solely by reason of such amendments remuneration payable under a written binding contract which was in effect on October 25, 1995, and which was not modified thereafter in any material respect before such remuneration is paid.

(c) USE OF REVENUES.—Notwithstanding any other provision of law, the Commissioner of Social Security shall increase the earnings limit otherwise determined for each year under section 203 of the Social Security Act (42 U.S.C. 403) by an amount which takes into account the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment to section 162(m)(3) of the Internal Revenue Code of 1986 made by the Balanced Budget Reconciliation Act of 1995.

HARKIN (AND OTHERS) AMENDMENT NO. 2970

Mr. HARKIN (for himself, Mr. GRAHAM, and Mr. BIDEN) proposed an amendment to the bill S. 1357, supra; as follows:

Strike Chapter 6 of Title VII except for the text of amendment number 2950 as passed by the Senate and insert in lieu thereof, the following:

CHAPTER 6—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 7100. SHORT TITLE.

This chapter may be cited as the ''Health Care Fraud and Abuse Prevention Act of 1995''.

Subchapter A—Fraud and Abuse Control Program

SEC. 7101. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

''FRAUD AND ABUSE CONTROL PROGRAM

''SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

''(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

''(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

''(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

''(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

''(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

''(3) GUIDELINES.—

''(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

''(B) INFORMATION GUIDELINES.—

''(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

''(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

''(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

''(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

''(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

''(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

''(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

''(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

''(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

''(1) a policy of health insurance;

''(2) a contract of a service benefit organization; and

''(3) a membership agreement with a health maintenance organization or other prepaid health plan.''.

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

''(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

''(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

''(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

''(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

''(i) such gifts and bequests as may be made as provided in subparagraph (B);

''(ii) such amounts as may be deposited in the Trust Fund as provided in sections 7141(b) and 7142(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

''(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

''(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

''(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

''(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

''(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

''(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

''(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

''(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

''(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be available without further appropriation, in an amount—

''(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

''(I) for fiscal year 1996, $110,000,000,

''(II) for fiscal year 1997, $140,000,000,

''(III) for fiscal year 1998, $160,000,000,

''(IV) for fiscal year 1999, $185,000,000,

''(V) for fiscal year 2000, $215,000,000,

''(VI) for fiscal year 2001, $240,000,000, and

''(VII) for fiscal year 2002, $270,000,000; and

''(ii) with respect to all activities (including the activities described in clause (i)) in carrying out such purposes, not more than—

''(I) for fiscal year 1996, $200,000,000, and

''(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

''(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

''(B) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

''(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

''(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

''(II) investigations;

''(III) financial and performance audits of health care programs and operations;

''(IV) inspections and other evaluations; and

''(V) provider and consumer education regarding compliance with the provisions of title XI.

''(ii) USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

''(4) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.''.

SEC. 7102. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by striking ''MEDICARE OR STATE HEALTH CARE PROGRAMS'' and inserting ''FEDERAL HEALTH CARE PROGRAMS''.

(B) In subsection (a)(1), by striking ''a program under title XVIII or a State health care program (as defined in section 1128(h))'' and inserting ''a Federal health care program''.

(C) In subsection (a)(5), by striking ''a program under title XVIII or a State health care program'' and inserting ''a Federal health care program''.

(D) In the second sentence of subsection (a)—

(i) by striking ''a State plan approved under title XIX'' and inserting ''a Federal health care program''; and

(ii) by striking ''the State may at its option (notwithstanding any other provision of that title or of such plan)'' and inserting ''the administrator of such program may at its option (notwithstanding any other provision of such program)''.

(E) In subsection (b)—

(i) by striking ''and willfully'' each place it appears;

(ii) by striking ''$25,000'' each place it appears and inserting ''$50,000'';

(iii) by striking ''title XVIII or a State health care program'' each place it appears and inserting ''Federal health care program'';

(iv) in paragraph (1) in the matter preceding subparagraph (A), by striking ''kind—'' and inserting ''kind with intent to be influenced—'';

(v) in paragraph (1)(A), by striking ''in return for referring'' and inserting ''to refer'';

(vi) in paragraph (1)(B), by striking ''in return for purchasing, leasing, ordering, or arranging for or recommending'' and inserting ''to purchase, lease, order, or arrange for or recommend'';

(vii) in paragraph (2) in the matter proceeding subparagraph (A), by striking ''to induce such person'' and inserting ''with intent to influence such person'';

(viii) by adding at the end of paragraphs (1) and (2) the following sentence: ''A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.'';

(ix) by redesignating paragraph (3) as paragraph (4);

(x) in paragraph (4) (as redesignated), by striking ''Paragraphs (1) and (2)'' and inserting ''Paragraphs (1), (2), and (3)''; and

(xi) by inserting after paragraph (2) the following new paragraph:

''(3)(A) The Attorney General may bring an action in the district courts to impose upon any person who carries out any activity in violation of this subsection a civil penalty of not less than $25,000 and not more than $50,000 for each such violation, plus three times the total remuneration offered, paid, solicited, or received.

''(B) A violation exists under this paragraph if one or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

''(C) Section 3731 of title 31, United States Code, and the Federal Rules of Civil Procedure shall apply to actions brought under this paragraph.

''(D) The provisions of this paragraph do not affect the availability of other criminal and civil remedies for such violations.''.

(F) In subsection (c), by inserting ''(as defined in section 1128(h))'' after ''a State health care program''.

(G) By adding at the end the following new subsections:

''(f) For purposes of this section, the term 'Federal health care program' means—

''(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

''(2) any State health care program, as defined in section 1128(h).

''(g)(1) The Secretary and Administrator of the departments and agencies with a Federal health care program may conduct an investigation or audit relating to violations of this section and claims within the jurisdiction of other Federal departments or agencies if the following conditions are satisfied:

''(A) The investigation or audit involves primarily claims submitted to the Federal health care programs of the department or agency conducting the investigation or audit.

''(B) The Secretary or Administrator of the department or agency conducting the investigation or audit gives notice and an opportunity to participate in the investigation or audit to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

''(2) If the conditions specified in paragraph (1) are fulfilled, the Inspector General of the department or agency conducting the investigation or audit may exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.''.

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

''(h) The Secretary may—

''(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

''(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 7103. HEALTH CARE FRAUD AND ABUSE PROVIDER GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a–7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the ''Inspector General'') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)).

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (42 U.S.C. 1320a–7a and 1320a–7b) (in this section referred to as an ''interpretive ruling'').

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 120 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 120 days after receiving such a request and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) (in this subsection referred to as a ''special fraud alert'').

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. 7104. MEDICARE/MEDICAID BENEFICIARY PROTECTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Not later than January 1, 1996, the Secretary (through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall establish the Medicare/Medicaid Beneficiary Protection Program. Under such program the Secretary shall—

(1) educate medicare and medicaid beneficiaries regarding—

(A) medicare and medicaid program coverage;

(B) fraudulent and abusive practices;

(C) medically unnecessary health care items and services; and

(D) substandard health care items and services;

(2) identify and publicize fraudulent and abusive practices with respect to the delivery of health care items and services; and

(3) establish a procedure for the reporting of fraudulent and abusive health care providers, practitioners, claims, items, and services to appropriate law enforcement and payer agencies.

(b) RECOGNITION AND PUBLICATION OF CONTRIBUTIONS.—The program established by the Secretary under this section shall recognize and publicize significant contributions made by individual health care patients toward the combating of health care fraud and abuse.

(c) DISSEMINATION OF INFORMATION.—The Secretary shall provide for the broad dissemination of information regarding the

Medicare/Medicaid Beneficiary Protection Program.

PART II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 7110. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

''(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.''.

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

''(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law—

''(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

''(i) in connection with the delivery of a health care item or service, or

''(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

''(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.''.

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.''.

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking ''CONVICTION'' and inserting ''MISDEMEANOR CONVICTION''; and

(B) by striking ''criminal offense'' and inserting ''criminal offense consisting of a misdemeanor''.

SEC. 7111. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

''(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

''(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

''(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.''.

SEC. 7112. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

''(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

''(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

''(B) that has been excluded from participation under a program under title XVIII or under a State health care program.''.

SEC. 7113. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking ''may prescribe)'' and inserting ''may prescribe, except that such period may not be less than 1 year)''.

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking ''shall remain'' and inserting ''shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain''.

(b) REPEAL OF ''UNWILLING OR UNABLE'' CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking ''and determines'' and all that follows through ''such obligations,''; and

(2) by striking the third sentence.

SEC. 7114. SANCTIONS AGAINST PROVIDERS FOR EXCESSIVE FEES OR PRICES.

Section 1128(b)(6)(A) (42 U.S.C. 1320a–7(b)(6)(A)) is amended—

(1) by inserting ''(as specified by the Secretary in regulations)'' after ''substantially in excess of such individual's or entity's usual charges''; and

(2) striking ''(or, in applicable cases, substantially in excess of such individual's or entity's costs)'' and inserting '', costs or fees''.

SEC. 7115. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—Section 1128 (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

''(j) APPLICABILITY OF BANKRUPTCY PROVISIONS.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.''.

(b) CIVIL MONETARY PENALTIES.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following sentence: ''An exclusion imposed under this subsection is not subject to the automatic stay imposed under sec-***

SEC. 7114. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking ''the Secretary may terminate'' and all that follows and inserting ''in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

''(A) has failed substantially to carry out the contract;

''(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

''(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).''.

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

''(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

''(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

''(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

''(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.''.

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

''(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

''(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

''(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

''(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.''.

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking ''an agreement'' and inserting ''a written agreement''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 7115. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—Section 1128 (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

''(j) APPLICABILITY OF BANKRUPTCY PROVISIONS.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.''.

(b) CIVIL MONETARY PENALTIES.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following sentence: ''An exclusion imposed under this subsection is not subject to the automatic stay imposed under section 362 of title 11, United States Code, and any penalties and assessments imposed under this section shall be nondischargeable under the provisions of such title.''.

(c) OFFSET OF PAYMENTS TO INDIVIDUALS.—Section 1892(a)(4) (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following sentence: ''An exclusion imposed under paragraph (2)(C)(ii) or paragraph (3)(B) is not subject to the automatic stay imposed under section 362 of title 11, United States Code.''

SEC. 7116. AGREEMENTS WITH PEER REVIEW ORGANIZATIONS FOR MEDICARE COORDINATED CARE ORGANIZATIONS.

(a) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1996, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under part C of title XVIII of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1856(d)(7)(A) of such Act, as added by section 7003(a).

(b) REPORT BY GAO.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under part C of title XVIII of the Social Security Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(2) REPORT TO CONGRESS.—Not later than July 1, 1998, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under paragraph (1).

SEC. 7117. EFFECTIVE DATE.

The amendments made by this chapter shall take effect January 1, 1996.

PART III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 7120. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action and whether such action is on appeal.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies, health plans, and the public pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee may be sufficient to recover the full costs of carrying out the provisions of this section, including reporting, disclosure, and administration. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1)(A) The term ''final adverse action'' includes:

(i) Civil judgments against a health care provider or practitioner in Federal or State court related to the delivery of a health care item or service.

(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(II) any other loss of license, or the right to apply for or renew a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

(III) any other negative action or finding by such Federal or State agency that is publicly available information.

(iv) Exclusion from participation in Federal or State health care programs.

(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(B) The term does not include any action with respect to a malpractice claim.

(2) The terms ''licensed health care practitioner'', ''licensed practitioner'', and ''practitioner'' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term ''health care provider'' means a provider of services as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u)), and any person or entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term ''supplier'' means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act (42 U.S.C. 1395i–3(a) and (b), and 1395x).

(5) The term ''Government agency'' shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term ''health plan'' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

(A) a policy of health insurance;

(B) a contract of a service benefit organization;

(C) a membership agreement with a health maintenance organization or other prepaid health plan; and

(D) an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(7) For purposes of paragraph (1), the existence of a conviction shall be determined under section 1128(i) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) (42 U.S.C. 1396r–2(d)) is amended by inserting ''and section 7061 of the Medicare Improvement and Solvency Protection Act of 1995'' after ''section 422 of the Health Care Quality Improvement Act of 1986''.

SEC. 7121. INSPECTOR GENERAL ACCESS TO ADDITIONAL PRACTITIONER DATA BANK.

Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (a), by adding at the end the following sentence: ''Information reported under this part shall also be made available, upon request, to the Inspector General of the Departments of Health and Human Services, Defense, and Labor, the Office of Personnel Management, and the Railroad Retirement Board.''; and

(2) by amending subsection (b)(4) to read as follows:

''(4) FEES.—The Secretary may impose fees for the disclosure of information under this part sufficient to recover the full costs of carrying out the provisions of this part, including reporting, disclosure, and administration, except that a fee may not be imposed for requests made by the Inspector General of the Department of Health and Human Services. Such fees shall remain available to the Secretary (or, in the Secretary's discretion, to the agency designated in section 424(b)) until expended.''.

SEC. 7122. CORPORATE WHISTLEBLOWER PROGRAM.

Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

CORPORATE WHISTLEBLOWER PROGRAM

''SEC. 1128C (a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Inspector General of the Department of Health and Human Services, shall establish a procedure whereby corporations, partnerships, and other legal entities specified by the Secretary, may voluntarily disclose instances of unlawful conduct and seek to resolve liability for such conduct through means specified by the Secretary.

''(b) LIMITATION.—No person may bring an action under section 3730(b) of title 31, United States Code, if, on the date of filing—

''(1) the matter set forth in the complaint has been voluntarily disclosed to the United States by the proposed defendant and the defendant has been accepted into the voluntary disclosure program established pursuant to subsection (a); and

''(2) any new information provided in the complaint under such section does not add substantial grounds for additional recovery beyond those encompassed within the scope of the voluntary disclosure.''.

PART IV—CIVIL MONETARY PENALTIES

SEC. 7121. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking ''programs under title XVIII'' and inserting ''Federal health care programs (as defined in section 1128B(b)(f))''.

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

''(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Balanced Budget Reconciliation of 1995 (as estimated by the Secretary) shall be deposited into the Hospital Insurance Trust Fund.''.

(3) In subsection (i)—

(A) in paragraph (2), by striking ''title V, XVIII, XIX, or XX of this Act'' and inserting ''a Federal health care program (as defined in section 1128B(f))'';

(B) in paragraph (4), by striking ''a health insurance or medical services program under title XVIII or XIX of this Act'' and inserting ''a Federal health care program (as so defined)''; and

(C) in paragraph (5), by striking ''title V, XVIII, XIX, or XX'' and inserting ''a Federal health care program (as so defined)''.

(4) By adding at the end the following new subsection:

''(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

''(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

''(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

''(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

''(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.''.

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking ''or'' at the end of paragraph (1)(D);

(2) by striking '', or'' at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting ''; or''; and

(4) by inserting after paragraph (3) the following new paragraph:

''(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;''.

(c) EMPLOYER BILLING FOR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED EMPLOYEE.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking ''; or'' at the end of subparagraph (D) and inserting '', or''; and

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

''(E) is for a medical or other item or service furnished, directed, or prescribed by an individual who is an employee or agent of the person during a period in which such employee or agent was excluded from the program under which the claim was made on any of the grounds for exclusion described in subparagraph (D);''.

(d) CIVIL MONEY PENALTIES FOR ITEMS OR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a–7a(a)(1)(D)) is amended by inserting '', directed, or prescribed'' after ''furnished''.

(e) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking ''$2,000'' and inserting ''$10,000'';

(2) by inserting ''; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs'' after ''false or misleading information was given''; and

(3) by striking ''twice the amount'' and inserting ''3 times the amount''.

(f) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking ''claimed,'' and inserting ''claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,'';

(2) in subparagraph (C), by striking ''or'' at the end;

(3) in subparagraph (D), by striking ''; or'' and inserting '', or''; and

(4) by inserting after subparagraph (D) the following new subparagraph:

''(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or''.

(g) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) (42 U.S.C. 1320a–7a(a)) is amended by adding the following new paragraph:

''(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).''.

(h) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking ''the actual or estimated cost'' and inserting ''up to $10,000 for each instance''.

(i) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking ''or'' at the end of paragraph (1)(D);

(B) by striking '', or'' at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting ''; or''; and

(D) by inserting after paragraph (3) the following new paragraph:

''(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;''.

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

''(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

''(A) the waiver of coinsurance and deductible amounts by a person, if—

''(i) the waiver is not offered as part of any advertisement or solicitation;

''(ii) the person does not routinely waive coinsurance or deductible amounts; and

''(iii) the person—

''(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

''(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

''(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

''(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payors, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995; or

''(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.''.

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

PART V—CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

SEC. 7131. HEALTH CARE FRAUD.

(a) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1347. Health care fraud

''(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under he custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

''(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1347. Health care fraud.''.

SEC. 7132. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

''(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

''(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

''(i) section 1347 of this title;

''(ii) section 1128B of the Social Security Act; and

''(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.''.

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting ''or (a)(6)'' after ''(a)(1)''.

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 7101(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term ''payment of the costs of asset forfeiture'' means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 7133. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by inserting ''or'' at the end of subparagraph (B); and

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

''(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);''.

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting ''or a Federal health care offense (as defined in section 982(a)(6)(B))'' after ''title)''.

SEC. 7134. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

''(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

''(1) received in the course of duty as an attorney for the Government; or

''(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.''.

SEC. 7135. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47, of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1035. False statements relating to health care matters

''(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

''1035. False statements relating to health care matters.''.

SEC. 7136. OBSTRUCTION OF CRIMINAL INVESTIGATIONS, AUDITS, OR INSPECTIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses

''(a) IN GENERAL.—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a Federal agent or employee involved in an investigation, audit, inspection, or other activity related to such an offense, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

''(c) CRIMINAL INVESTIGATOR.—As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

''1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses.''.

SEC. 7137. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 669. Theft or embezzlement in connection with health care

''(a) IN GENERAL.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

''(b) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

''669. Theft or embezzlement in connection with health care.''.

SEC. 7138. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

''(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.''.

SEC. 7139. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§ 3486. Authorized investigative demand procedures

''(a) AUTHORIZATION.—

''(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A custodian of records may be required to give testimony concerning the production and authentication of such records. The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

''(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

''(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

''(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

''(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to such person. Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

''(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if go ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

''(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

''(e) USE IN ACTION AGAINST INDIVIDUALS.—

''(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

''(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

''(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

''(f) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

''3486. Authorized investigative demand procedures.''.

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting ''or a Department of Justice subpoena (issued under section 3486),'' after ''subpoena''.

PART VI—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 7141. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Section 1903(q)(3) (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting ''(A)'' after ''in connection with''; and

(2) by striking ''title.'' and inserting ''title; and (B) in cases where the entity's function is also described by subparagraph (A), and upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(b)(1)).''.

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN

Non-Medicaid Board and Care Facilities.—Section 1903(q)(4) (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

''(4)(A) The entity has—

''(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

''(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

''(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

''(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

''(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

''(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.''.

PART VII—MEDICARE/MEDICAID BILLING ABUSE PREVENTION

SEC. 7151. UNIFORM MEDICARE/MEDICAID APPLICATION PROCESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish procedures and a uniform application form for use by any individual or entity that seeks to participate in the programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.). The procedures established shall include the following:

(1) Execution of a standard authorization form by all individuals and entities prior to submission of claims for payment which shall include the social security number of the beneficiary and the TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner providing items or services under the claim.

(2) Assumption of responsibility and liability for all claims submitted.

(3) A right of access by the Secretary to provider records relating to items and services rendered to beneficiaries of such programs.

(4) Retention of source documentation.

(5) Provision of complete and accurate documentation to support all claims for payment.

(6) A statement of the legal consequences for the submission of false or fraudulent claims for payment.

SEC. 7152. STANDARDS FOR UNIFORM CLAIMS.

(a) ESTABLISHMENT OF STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish standards for the form and submission of claims for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(b) ENSURING PROVIDER RESPONSIBILITY.—In establishing standards under subsection (a), the Secretary, in consultation with appropriate agencies including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted as necessary to control fraud and abuse.

(c) USE OF ELECTRONIC MEDIA.—The Secretary shall develop specific standards which govern the submission of claims through electronic media in order to control fraud and abuse in the submission of such claims.

SEC. 7153. UNIQUE PROVIDER IDENTIFICATION CODE.

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which provides for the issuance of a unique identifier code for each individual or entity furnishing items or services for which payment may be made under title XVIII or XIX of the Social Security (42 U.S.C. 1395 et seq.; 1396 et seq.), and the notation of such unique identifier codes on all claims for payment.

(b) APPLICATION FEE.—The Secretary shall require an individual applying for a unique identifier code under subsection (a) to submit a fee in an amount determined by the Secretary to be sufficient to cover the cost of investigating the information on the application and the individual's suitability for receiving such a code.

SEC. 7154. USE OF NEW PROCEDURES.

No payment may be made under either title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.) for any item or service furnished by an individual or entity unless the requirements of sections 7102 and 7103 are satisfied.

SEC. 7155. REQUIRED BILLING, PAYMENT, AND COST LIMIT CALCULATION TO BE BASED ON SITE WHERE SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

''(g) A home health agency shall submit claims for payment of home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.''.

(b) WAGE ADJUSTMENT.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking ''agency is located'' and inserting ''service is furnished''.

Subchapter B—Additional Provisions to Combat Waste, Fraud, and Abuse

PART I—WASTE AND ABUSE REDUCTION

SEC. 7161. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Tickets to sporting or other entertainment events.

(2) Gifts or donations.

(3) Costs related to team sports.

(4) Personal use of motor vehicles.

(5) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(6) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

SEC. 7162. APPLICATION OF COMPETITIVE ACQUISITION PROCESS FOR PART B ITEMS AND SERVICES.

(a) GENERAL RULE.—Part B of title XVIII is amended by inserting after section 1846 the following new section:

''COMPETITION ACQUISITION FOR ITEMS AND SERVICES

''SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—

''(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1996. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

''(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall—

''(A) initially be within, or be centered around metropolitan statistical areas;

''(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area; and

''(C) be chosen so as to not reduce access to such items and services to individuals residing in rural and other underserved areas..

''(b) AWARDING OF CONTRACTS IN AREAS.—

''(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

''(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity—

''(A) meets quality standards specified by the Secretary for the furnishing of such item or service; and

''(B) offers to furnish a total quantity of such item or service that is sufficient to meet the expected need within the competitive acquisition area and to assure that access to such items (including appropriate customized items) and services to individuals residing in rural and other underserved areas is not reduced.

''(3) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

''(A) the quantity of items and services the entity shall provide; and

''(B) such other terms and conditions as the Secretary may require.

''(c) SERVICES DESCRIBED.—The items and services to which the provisions of this section shall apply are as follows:

''(1) Durable medical equipment and medical supplies.

''(2) Oxygen and oxygen equipment.

''(3) Such other items and services with respect to which the Secretary determines the use of competitive acquisition under this section to be appropriate and cost-effective.''.

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking ''or'' at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting ''; or''; and

(3) by inserting after paragraph (15) the following new paragraph:

''(16) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.''.

(c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items

and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section does not result in a reduction, beginning on January 1, 1997, of at least 20 percent (40 percent in the case of oxygen and oxygen equipment) in the projected payment amount that would have applied to an item or service under part B if the item or service had not been furnished through competitive acquisition under such section, the Secretary shall reduce such payment amount by such percentage as the Secretary determines necessary to result in such a reduction. Notwithstanding this section, in no case can the Secretary make a payment for items and services described in Section 1847(c) that are greater than that required by other provisions of the Balanced Budget Reconciliation Act of 1995.

SEC. 7163. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended by striking ''Secretary may'' both places it appears and inserting ''Secretary shall''.

SEC. 7164. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

(a) GENERAL RULE.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking ''paragraphs (8) and (9)'' and all that follows through the end of the sentence and inserting ''section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions (relating to determinations of grossly excessive payment amounts) apply to items and services and entities and a reasonable charge under section 1842(b)''.

(b) REPEAL OF OBSOLETE PROVISIONS.—

(1) Section 1842(b)(8) (42 U.S.C. 1395u(b)(8)) is amended—

(A) by striking subparagraphs (B) and (C),

(B) by striking ''(8)(A)'' and inserting ''(8)'', and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(2) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9)) is repealed.

(c) PAYMENT FOR SURGICAL DRESSINGS.—Section 1834(i) (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

''(3) GROSSLY EXCESSIVE PAYMENT AMOUNTS.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.''.

SEC. 7165. EFFECTIVE DATE.

The amendments made by this chapter shall apply to items and services furnished under title XVIII of the Social Security Act on or after January 1, 1996.

PART II—MEDICARE BILLING ABUSE PREVENTION

SEC. 7171. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this subchapter referred to as ''ADPE'') meeting the requirements of section 7122 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) SUPPLEMENTATION.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) STANDARDIZATION.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) IMPLEMENTATION DATE.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

SEC. 7172. MINIMUM SOFTWARE REQUIREMENTS.

(a) IN GENERAL.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) MINIMUM STANDARDS.—Nothing in this subchapter shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

SEC. 7173. DISCLOSURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 7171(a) shall not be subject to public disclosure.

(b) EXCEPTION.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 7121(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

SEC. 7174. REVIEW AND MODIFICATION OF REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 7171.

SEC. 7175. DEFINITIONS.

For purposes of this chapter—

(1) The term ''automatic data processing equipment'' (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term ''billing code abuse'' means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term ''commercial item'' has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term ''medicare part B'' means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j–1395w–4).

(5) The term ''medicare carrier'' means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term ''payment policies'' means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term ''Secretary'' means the Secretary of Health and Human Services.

PART III—REFORMING PAYMENTS FOR AMBULANCE SERVICES

SEC. 7141. REFORMING PAYMENTS FOR AMBULANCE SERVICES.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(k) PAYMENT FOR AMBULANCE SERVICES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this part (except Section 1861(v)(1)(V)) with respect to ambulance services described in section 1861(s)(7), payment shall be made based on the lesser of—

''(A) the actual charges for the services; or

''(B) the amount determined by a fee schedule developed by the Secretary.

''(2) FEE SCHEDULE.—The fee schedule established under paragraph (1) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for services performed on or after January 1, 1996.

''(3) SEPARATE PAYMENT LEVELS.—

''(A) IN GENERAL.—In establishing the fee schedule under paragraph (2), the Secretary shall establish separate payment rates for advanced life support and basic life support services. Payment levels shall be restricted to the basic life support level unless the patient's medical condition or other circumstance necessitates (as determined by the Secretary in regulations) the provisions of advanced life support services.

''(B) NONROUTINE BASIS.—The Secretary shall also establish appropriate payment levels for the provision of ambulance services that are provided on a routine or scheduled basis. Such payment levels shall not exceed 80 percent of the applicable rate for unscheduled transports.

''(5) SPECIAL RULE FOR END STAGE RENAL DISEASE BENEFICIARIES.—The Secretary shall direct the carriers to identify end stage renal disease beneficiaries who receive ambulance transports and—

''(A) make no payment for scheduled ambulance transports unless authorized in advance by the carrier; or

''(B) make no additional payment for scheduled ambulance transports for beneficiaries that have utilized ambulance services twice within 4 continuous days, or 7 times within a continuous 15-day period, unless authorized in advance by the carrier; or

''(C) institute other such safeguards as the Secretary may determine are necessary to ensure appropriate utilization of ambulance transports by such beneficiaries.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished under title XVIII of the Social Security Act on and after January 1, 1997.

PART IV—REWARDS FOR INFORMATION

SEC. 7192. REWARDS FOR INFORMATION LEADING TO HEALTH CARE FRAUD PROSECUTION AND CONVICTION.

(a) IN GENERAL.—In special circumstances, the Secretary of Health and Human Services and the Attorney General of the United States may jointly make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution for health care fraud.

(b) INELIGIBLE PERSONS.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) DEFINITIONS.—

(1) HEALTH CARE FRAUD.—For purposes of this section, the term ''health care fraud'' means health care fraud within the meaning of section 1347 of title 18, United States Code.

(2) ORIGINAL SOURCE.—For the purposes of subsection (b)(3)(C), the term ''original source'' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

(d) NO JUDICIAL REVIEW.—Neither the failure of the Secretary of Health and Human Services and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

MCCAIN (AND OTHERS) AMENDMENT NO. 2971

Mr. MCCAIN (for himself, Mr. FEINGOLD, Mr. THOMPSON, Mr. KERRY, and Mr. FAIRCLOTH) proposed an amendment to the bill S. 1357, supra; as follows:

Strike section 1301 and insert the following:

SEC. 1301. ELIMINATION OF MARKET PROMOTION PROGRAM.

(a) IN GENERAL.—Section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) is repealed.

(b) TRANSITIONAL ASSISTANCE.—The Secretary of Agriculture is authorized to take such actions are necessary to facilitate the transition to the private sector of activities carried out under the market promotion program established under section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) (as in effect prior to the amendment made by subsection (a)).

(c) CONFORMING AMENDMENTS.—

(1) Section 211 of the Act (7 U.S.C. 5641) is amended by striking subsection (c).

(2) Section 402(a)(1) of the Act (7 U.S.C. 5662(a)(1)) is amended by striking ''203,''.

(3) Section 1302 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 7 U.S.C. 5623 note) is repealed.

SEC. 1301A. TERMINATION OF ADVANCED LIGHT-WATER REACTOR PROGRAM.

(a) ADVANCED LIGHT-WATER REACTOR PROGRAM.—(1) The Secretary of Energy shall terminate the Advanced Light-Water Reactor program.

(2) Except as provided in subsection (c), the Secretary of Energy may not obligate or expend funds for the program referred to in paragraph (1) except to pay the costs associated with the termination of that program.

(b) ASSUMPTION OF PROGRAM OPERATIONS.—The Secretary of Energy shall take appropriate actions to ensure the assumption by a private consortium of the research operations and activities (including the purchase of capital equipment necessary for such operations and activities) under the programs referred to in subsection (a)(1). Such actions may include the obligation and expenditure of funds available for such programs.

SEC. 1301B. TIMBER ACCESS ROADS.

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Agriculture and the Secretary of the Interior, in or in connection with a contract for the sale of timber on Federal land, shall require the contractor to pay a fair prorated share for the construction and maintenance of any road that is required to provide access to the timber harvest area.

(b) CONSIDERATIONS.—In determining the share of a contractor under subsection (a), the Secretary of Agriculture and the Secretary of the Interior, respectively, shall consider—

(1) the various uses to which a road will be put, such as providing access to other areas of Federal land for purposes of recreation or maintenance and other purposes; and

(2) the benefit to the public in carrying out the harvest, in the case of a salvage sale or other sale in which the carrying out of the harvest provides a public benefit.

(c) REQUIREMENT.—The Secretary of Agriculture and the Secretary of the Interior shall require the contractor described in subsection (a) to pay the full cost of timber construction access roads referred to in subsection (a) if the road is not authorized for purposes other than timber within the applicable forest management plan.

SEC. 1301C. TERMINATION OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.

(a) TERMINATION OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.—The United States Travel and Tourism Administration of the Department of Commerce is terminated.

(b) CONFORMING AMENDMENTS.—

(1) SMALL BUSINESS ACT.—Section 21(c)(3)(O) of the Small Business Act (15 U.S.C. 648(c)(3)(O)) is amended by striking ''in conjunction with the United States Travel and Tourism Administration,''.

(2) DEPARTMENT OF COMMERCE APPROPRIATIONS ACT, 1988.—The first sentence of section 108 of the Department of Commerce Appropriations Act, 1988 (15 U.S.C. 1531) is amended by striking '', the Export Administration, and the United States Travel and Tourism Administration.'' and inserting ''and the Export Administration.''.

(3) ACT OF FEBRUARY 14, 1903.—Section 12 of the Act of February 14, 1903 (32 Stat. 826, chapter 552; 15 U.S.C. 1511) is amended—

(A) by striking subsection (b); and

(B) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively.

(4) INTERNATIONAL TRAVEL ACT OF 1961.—

(A) PERFORMANCE OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.—Section 206 of the International Travel Act of 1961 (22 U.S.C. 2123d) is repealed.

(B) UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.—Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is repealed.

(C) TOURISM POLICY COUNCIL.—Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (B);

(iii) by striking subparagraph (D); and

(iv) by redesignating subparagraphs (E) through (P) as subparagraphs (C) through (N), respectively.

(5) RURAL TOURISM DEVELOPMENT FOUNDATION.—Section 4 of the Tourism Policy and Export Promotion Act of 1992 (22 U.S.C. 2124c) is amended by striking ''the Under Secretary of Commerce for Travel and Tourism'' each place it appears and inserting ''the Secretary of Commerce''.

(6) UNITED STATES TRAVEL AND TOURISM ADMINISTRATION FACILITATION FEE.—

(A) REPEAL.—Section 306 of the International Travel Act of 1961 (22 U.S.C. 2128) is repealed.

(B) UNEXPENDED FUNDS.—Any fees that are deposited in the general fund of the Treasury pursuant to section 306(d) of the International Travel Act of 1961 (22 U.S.C. 2128(d)) before the effective date specified in subsection (d)(1) shall remain available to the Secretary of Commerce until expended.

(C) PENALTIES.—Section 307 of the International Travel Act of 1961 (22 U.S.C. 2129) is repealed.

(7) TITLE 5.—

(A) UNDER SECRETARY OF COMMERCE FOR TRAVEL AND TOURISM.—Section 5314 of title 5, United States Code, is amended by striking ''Under Secretary of Commerce for Travel and Tourism'' in the item relating to Under Secretaries of Commerce.

(B) DIRECTOR, UNITED STATES TRAVEL SERVICE.—Section 5316 of title 5, United States Code, is amended by striking the following item:

''Director, United States Travel Service, Department of Commerce.''.

(c) TERMINATION OF AFFAIRS; FURTHER MEASURES.—The Secretary of Commerce shall provide for—

(1) the termination of the United States Trade and Travel Administration by the date specified in subsection (d)(1); and

(2) such further measures and disposition as may be necessary to carry out this section, including the disposition of any unexpended funds made available for the United States Trade and Travel Administration.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsections (a) and (b) shall become effective on October 1, 1997.

(2) DUTIES OF THE SECRETARY OF COMMERCE.—Subsection (c) shall become effective on the date of enactment of this Act.

SEC. 1301D. RECOUPMENT OF CERTAIN DEPARTMENT OF DEFENSE COSTS FOR EQUIPMENT SOLD DIRECTLY BY CONTRACTORS TO FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.

(a) RECOUPMENT REQUIRED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following:

''§ 2410k. Recoupment of costs: certain costs associated with major defense equipment sold directly by contractors to foreign countries and international organizations

''(a) CONTRACT CLAUSE.—Each contract of the Department of Defense for the procurement of major defense equipment shall include a clause that provides for the Department of Defense to recoup from the contractor, for each unit of such equipment that is sold directly to an eligible country or international organization, the unit amount of any nonrecurring costs incurred by the Department of Defense for research, development, and production of such equipment.

''(b) UNIT AMOUNT.—For purposes of this section, the unit amount of the nonrecurring costs of research, development, and production of major defense equipment to be recouped from a contractor is one-half of the amount that is determined by dividing—

''(1) the total amount of such costs that have been incurred by the Department of Defense for such equipment, by

''(2) the sum of—

''(A) the estimated total number of the units of such equipment that will be sold by the contractor directly to eligible foreign countries and international organizations, and

''(B) the estimated total number of the units of such equipment that will be purchased from such contractor by the Department of Defense.

''(c) MAXIMUM AMOUNT RECOUPED.—The total amount of the nonrecurring costs of research, development, and production recouped from a contractor under this section for particular major defense equipment may not exceed the amount determined by multiplying—

''(1) the unit amount computed for such equipment under subsection (b), by

''(2) twice the number estimated for such equipment under paragraph (2)(A) of such subsection in the computation of the unit amount.

''(d) WAIVER AUTHORITY.—The President may waive recoupment of up to 50 percent of the unit amount for each unit of major defense equipment sold to an eligible country or international organization by a contractor if the President determines that the recoupment requirement would otherwise be a severe impediment to the sale.

''(e) SOURCE OF PAYMENT OF RECOUPMENT.—A contractor may pay amounts to be recouped by the Department of Defense out of any charges that the contractor imposes on an eligible country or international organization for such purpose or out of any other source of funds available to the contractor.

''(f) DEFINITIONS.—In this section:

''(1) The term 'major defense equipment' has the meaning given that term in section 47(6) of the Arms Export Control Act (22 U.S.C. 2794(6)).

''(2) The terms 'nonrecurring costs of research, development, and production', 'eligible country', and 'eligible international organization' have the meanings applicable to such terms for purposes of section 21 of the Arms Export Control Act (22 U.S.C. 2761).''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2410*l* the following:

''2410k. Recoupment of costs: certain costs associated with major defense equipment sold directly by contractors to foreign countries and international organizations.''.

(b) EFFECTIVE DATE.—Section 2410k of title 10, United States Code, as added by subsection (a), shall take effect on the date that is 90 days after the date of the enactment of this Act and shall apply with respect to solicitations issued by the Department of Defense for offers for contracts for the procurement of major defense equipment (as defined in such section) on or after that date.

SEC. 1301E. RECOUPMENT OF CERTAIN DEPARTMENT OF DEFENSE COSTS FOR EQUIPMENT SOLD UNDER THE ARMS EXPORT CONTROL ACT.

(a) RECOUPMENT REQUIRED.—

(1) IN GENERAL.—The Arms Export Control Act is amended by inserting after section 22 the following:

''SEC. 22A. RECOUPMENT OF COSTS: CERTAIN COSTS ASSOCIATED WITH MAJOR DEFENSE EQUIPMENT SOLD UNDER THE ACT.

''(a) LETTER OF OFFER CLAUSE.—Each letter of offer for the sale of major defense equipment under this Act to a foreign country or international organization shall include a clause that provides for the Department of Defense to recoup from the foreign country or international organization the unit amount of any nonrecurring costs incurred by the Department of Defense for research, development, and production of such equipment.

''(b) UNIT AMOUNT.—For purposes of this section, the unit amount of the nonrecurring costs of research, development, and production of major defense equipment to be recouped from a foreign country or international organization is one-half of the amount that is determined by dividing—

''(1) the total amount of such costs that have been incurred by the Department of Defense for such equipment, by

''(2) the sum of—

''(A) the estimated total number of the units of such equipment that will be sold by the contractor directly to eligible foreign countries and international organizations, and

''(B) the estimated total number of the units of such equipment that will be purchased from such contractor by the Department of Defense.

''(c) MAXIMUM AMOUNT RECOUPED.—The total amount of the nonrecurring costs of research, development, and production recouped from a foreign country or international organization under this section for particular major defense equipment may not exceed the amount determined by multiplying—

''(1) the unit amount computed for such equipment under subsection (b), by

''(2) twice the number estimated for such equipment under paragraph (2)(A) of such subsection in the computation of the unit amount.''.

(2) CONFORMING AMENDMENT.—Section 21(e)(1)(B) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(B)) is amended by inserting '', as determined in section 22A,'' after ''proportionate amount''.

(b) EFFECTIVE DATE.—Section 22A of the Arms Export Control Act, as added by subsection (a), shall take effect on the date that is 90 days after the date of the enactment of this Act and shall apply with respect to letters of offer for the sale of major defense equipment issued on or after that date.

SEC. 1301F. WAIVER OF CHARGES TO RECOUP NONRECURRING COSTS FOR MAJOR DEFENSE EQUIPMENT SOLD UNDER THE ARMS EXPORT CONTROL ACT.

Section 21(e)(2) of the Arms Export Control Act (22 U.S.C. 2761(e)(2)) is amended—

(1) by inserting ''(A)'' immediately after ''(2)''; and

(2) by adding at the end the following:

''(B) The President may reduce or waive up to 50 percent of the charge or charges which would otherwise be considered appropriate under paragraph (1)(B) if the President determines that imposition of the full charge or charges would be a severe impediment to the sale of the major defense equipment.''.

SEC. 1301G. ELIMINATION OF AUTHORITY AND FUNDING FOR HIGHWAY DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Except as provided in subsection (c) and except in the case of a contract or agreement entered into before the date of enactment of this Act, notwithstanding any other provision of law, the Secretary of Transportation may not enter into any contract or agreement to carry out, or carry out, a demonstration project or program authorized under—

(1) the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240);

(2) the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17);

(3) the Surface Transportation Assistance Act of 1982 (Public Law 97–424);

(4) any law described in section 6002(c); or

(5) any other law.

(b) PROHIBITION ON EXPENDITURE OF FUNDS.—Except as provided in subsection (c), no Federal funds shall be expended in connection with a demonstration project or program subject to subsection (a).

(c) EXCEPTION.—Subsections (a) and (b) shall not apply to any contract or agreement entered into, or any funds made available, solely for the purpose of terminating, as a result of this section, any action or activity involving a demonstration project or program subject to subsection (a).

(d) RESCISSION OF FUNDS.—There are rescinded—

(1) any amounts set aside or otherwise made available, for demonstration projects and programs subject to subsection (a), that are not expended as a result of this section; and

(2) the underlying appropriations for the amounts described in paragraph (1).

SEC. 1301H. RURAL UTILITIES SERVICE COSTS SAVINGS AND EFFICIENCIES.

Of the funds made available for the Rural Utilities Service, no funds shall be used in the form of a direct and guaranteed electric and telephone loan if the Administrator of the Rural Utilities Service finds no substantial need for the federally funded insured loans. The Administrator shall make a determination of need based on factors including the following:

(1) evidence that the applicant does not have the working capital available to internally finance the activity for which loan funds are requested; and

(2) documentation that the financing need cannot be met first directly from sources of private credit, or second from sources of private credit with a guarantee of the principal of and interest on the loan, unless the applicant cannot, in accordance with generally accepted management and accounting principles and without charging rates to its customers or subscribers so high as to create a substantial disparity between such rates and the rates charged for similar service in the same or nearby areas by other suppliers, provide service consistent with the objectives of the Rural Electrification Act.

SEC. 1301I. AMENDMENT TO THE EXPORT-IMPORT BANK ACT OF 1945.

The third sentence of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended to read as follows: ''The Bank shall consider its average cost of money as one factor in its determination of interest rates and shall otherwise seek to reduce to the extent feasible the cost of transactions under its loan, guarantee and insurance programs as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990 through—

(i) adjustments in fees, repayment terms and other conditions,

(ii) continuation of efforts to reach international agreements to reduce government subsidized export financing, and

(iii) other methods, where such consideration and methods of reducing the cost of transactions do not impair the Bank's primary function of expanding United States exports through fully competitive financing.''.

SEC. 1301J. PRIVATE SECTOR FUNDING FOR CERTAIN RESEARCH AND DEVELOPMENT BY NASA RELATING TO AIRCRAFT PERFORMANCE.

(a) REQUIREMENT FOR PRIVATE SECTOR FUNDING.—Except as provided in subsection (b), the Administrator of the National Aeronautics and Space Administration may not carry out research and development activities relating to the performance of aircraft (including supersonic aircraft and subsonic aircraft) unless the Administrator receives payment in full for such activities from the private sector.

(b) EXCEPTIONS.—The limitation set forth in subsection (a) does not apply to any research and development activities referred to in that subsection that are necessary for—

(1) ensuring the safety and security of the national air space system; or

(2) mitigating the environmental effects of, or noise resulting from, the operation of aircraft.

SEC. 1301K. AUCTION OF ELECTROMAGNETIC SPECTRUM.

(a) REPEAL OF EXISTING AUTHORITY TO ALLOCATE SPECTRUM.—(1) Subsections (i) and (j) of section 309 of the Communications Act of 1934 (47 U.S.C. 309) are repealed.

(2) No regulation prescribed by the Federal Communications Commission under the authority set forth in such subsection (i) or (j), or under any other provision of law authorizing the Commission to prescribe regulations for the grant of licenses or permits for the use of the electromagnetic spectrum, shall have any further force or effect after the date of the enactment of this Act.

(b) GRANT OF LICENSES AND PERMITS BY COMPETITIVE BIDDING.—Such section is further amended by adding at the end the following:

''(i) REQUIREMENT FOR COMPETITIVE BIDDING.—

''(1) REQUIREMENT.—Except as provided in paragraph (2), the Commission shall grant a license or construction permit involving the use of a portion of the electromagnetic spectrum not covered by a license or permit granted before the date of the enactment of the Balanced Budget Reconciliation Act of 1995 only through the use of a system of competitive bidding established by the Commission.

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Commission may grant a license or permit covered this subsection—

''(i) by alternative adjudication;

''(ii) without a fee; or

''(iii) for a nominal fee.

''(B) TERM OF LOW-FEE LICENSES AND PERMITS.—The term of a license granted under clause (ii) of subparagraph (A) or a permit granted under clause (iii) of that subparagraph may not exceed 10 years, except that the Commission may permit the renewal of the license or permit for an additional period of 10 years.

''(C) NOTICE AND WAIT REQUIREMENT.—The Commission may not grant a license or permit under this paragraph until 120 days after the date on which the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a notice of the intent of the Commission to so grant the license or permit.

''(D) CONTENTS OF NOTICE.—Each notice submitted under subparagraph (C) shall include the following:

''(i) A justification for the decision to grant the license or permit in question under this paragraph.

''(ii) An estimate of the revenue that the United States will forego as a result of the grant of the license or permit under this paragraph.

''(iii) An explanation of the manner in which the license or permit will be granted.

''(iv) If the license or permit will be granted under clause (ii) or (iii) of subparagraph (A), an explanation why the grant of the license or permit under such clause will be more beneficial to the public interest than the grant of the license or permit under paragraph (1).''.

SEC. 1301L. PROHIBITION PROCUREMENT OF ADDITIONAL B–2 BOMBER AIRCRAFT.

(a) PROHIBITION.—Notwithstanding any other provision of law, funds available to the Department of Defense may not be obligated or expended—

(1) to procure additional B–2 bomber aircraft in excess of the 20 operational and one prototype aircraft for which funds were appropriated before the date of the enactment of this Act; or

(2) to maintain an industrial base capability for B–2 bomber production in excess of that which is necessary to complete production and delivery of the 20 operational and one prototype B–2 bomber aircraft referred to in paragraph (1) and associated spares and repair parts necessary for those aircraft.

(b) RULE OF CONSTRUCTION.—A provision of law may not be construed as modifying or superseding the prohibition in subsection (a) unless that provision of law—

(1) specifically refers to this section; and

(2) specifically states that such provision of law modifies or supersedes the provisions of this section.

SEC. 1301M. COST SHARING OF GOVERNMENT RESEARCH ASSISTING THE FOSSIL FUELS INDUSTRY.

(a) COST SHARING.—Notwithstanding any other law, the Secretary of Energy shall require that at least 75 percent of the cost of any research and development project under the fossil fuels program of the Department of Energy be paid for from non-Federal sources.

(b) TERMINATION AND TRANSFER OF PROJECTS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall—

(1) terminate any fossil fuels program research and development project that does not meet the cost-sharing requirement of subsection (a); and

(2) take all actions necessary to transfer any such projects to the private sector.

BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRYOR) proposed an amendment to the bill S. 1357, supra; as follows:

Strike section 6002.

On page 1746, line 11, strike ''2001'' and insert ''2000''.

On page 1747, strike the matter between lines 7 and 8, and insert:

For calendar year:	The percentage is:
1995	100 percent
1996	80 percent
1997	60 percent
1998	40 percent
1999	20 percent.

CHAFEE (AND OTHERS) AMENDMENT NO. 2973

Mr. CHAFEE (for himself, Mr. CONRAD, and Mr. KERRY) proposed an amendment to the bill S. 1357, supra; as follows:

On page 767, strike lines 12 through 15 and insert the following:

''(3) provide for making medical assistance available to any individual receiving cash benefits under title XVI by reason of disability (including blindness) or receiving medical assistance under section 1902(f) (as in effect on the day before the date of enactment of this Act); and''.

BYRD (AND OTHERS) AMENDMENT NO. 2974

(Ordered to lie on the table.)

Mr. BRYD (for himself, Mr. FEINGOLD, Mr. SIMON, Mr. DORGAN, Mr. ROBB, Mr. HOLLINGS, and Mr. BUMPERS) submitted an amendment intended to be proposed by them to the bill S. 1357, supra; as follows:

On page 1469, strie beginning with line 1 and all that follows through page 1650, line 9.

BOND (AND PRYOR) AMENDMENT NO. 2975

Mr. BOND (for himself Mr. PRYOR, Mr. DOLE, Mr. DOMENICI, Mr. COVERDELL, Mr. STEVENS, and Mr. PRESSLER) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1553, beginning with line 13, strike all through page 1588, line 24, and insert:

Subchapter A—Health Insurance Costs of Self-Employed Individuals

SEC. 12201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—Section 162(l) is amended—

(1) by striking ''30 percent'' in paragraph (1) and inserting ''the applicable percentage'', and

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

''(6) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

''For taxable years beginning in	The applicable percentage is:
1996 and 1997	60
1998 and thereafter	100.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SNOWE (AND OTHERS) AMENDMENT NO. 2976

Ms. SNOWE (for herself, Mr. JEFFORDS, Mr. COHEN, Mr. KERRY, Mr. DODD, Mr. D'AMATO, Mr. SHELBY, Mr. BIDEN, Mr. MOCK, Mrs. HUTCHISON, and Mr. GRAMM) proposed an amendment to the bill S. 1357, supra; as follows:

On page 606, between lines 13 and 14, insert the following:

SEC. 7058. SENSE OF SENATE REGARDING COVERAGE FOR TREATMENT OF BREAST AND PROSTATE CANCER UNDER MEDICARE.

(a) FINDINGS.—The Senate finds that—

(1) breast and prostate cancer each strike about 200,000 persons annually, and each claims the lives of over 40,000 annually;

(2) medicare covers treatments of breast and prostate cancer including surgery, chemotherapy, and radiation therapy;

(3) the Omnibus Budget Reconciliation Act of 1993 (OBRA) expanded medicare to cover self-administered chemotherapeutic oral-cancer drugs which have the same active ingredients as drugs previously available in injectable or intravenous form;

(4) half of all women with breast cancer, and thousands of men with prostate cancer which has spread beyond the prostate, need hormonal therapy administered through oral cancer drugs which have never been available in injectable or intravenous form; and

(5) medicare's failure to cover oral cancer drugs for hormonal therapy makes the covered treatments less effective.

(b) SENSE OF SENATE.—It is the sense of the Senate that medicare should not discriminate among breast and prostate cancer victims by providing drug treatment coverage for some but not all such cancers, and that the budget reconciliation conferees should amend medicare to provide coverage for these important cancer drug treatments.

DORGAN (AND OTHERS) AMENDMENT NO. 2977

Mr. DORGAN (for himself, Mr. KENNEDY, Mr. REID, Mr. FEINGOLD, Mr. BUMPERS, and Mr. HARKIN) proposed an

amendment to the bill S. 1357, supra; as follows:

At the end of chapter 1 of subtitle I of title XII, insert the following new section:

SEC. 2. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5)).''

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

''(h) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property,

''(B) the sale, exchange, or other disposition of imported property, or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States, or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

''(B) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h)).''

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) is amended by striking ''or (E)'' and inserting ''(E), or (H)''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) (and by redesignating the following subclauses accordingly):

''(III) imported property income,''.

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1995, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1995.

GRAMM AMENDMENT NO. 2978

Mr. GRAMM proposed an amendment to the bill S. 1357, supra; as follows:

On page 767, strike all after ''(2)'' on line 6 through ''(4)'' on line 16.

KERRY (AND OTHERS) AMENDMENT NO. 2979

Mr. KERRY (for himself, Mr. KENNEDY, and Mr. WELLSTONE) proposed an amendment to the bill S. 1357, supra; as follows:

At the appropriate place in the bill insert the following new section:

''SEC . MINIMUM WAGE.

''(1) Findings. The federal minimum wage has not been raised since 1991; and

''(2) The value of the minimum wage, after being adjusted for the bite of inflation, is at its second lowest annual level since 1955, with purchasing power 26 percent below its average level during the 1970s and 35 percent below its peak value in 1968, and unless it is increased it will in 1996 have its lowest value in over 40 years; and

''(3) The value of the minimum wage as a percentage of the average nonsupervisory wage averaged 52.2 percent during the decade of the 1960s, 45.8 percent during the decade of the 1970s, 40.4 percent during the decade of the 1980s, and currently is 37.7 percent; and

''(4) The minimum wage earned by a full-time worker over a year fails to provide sufficient income for a family of three to provide that family a standard of living even reaching the national poverty level, and, in fact, provides an income that equals only 70 percent of the federal poverty level for a family of three; and

''(5) There are 4.7 million Americans who usually work full-time but who are, nevertheless, in poverty, and 4.2 million families live in poverty despite having one or more members in the labor force for at least half the year; and

''(6) Nearly two-thirds of minimum wage workers are adults, and 60 percent are women; and

''(7) The decline in the value of the minimum wage since 1979 has contributed to Americans' growing income disparity and to the fact that 97 percent of the growth in household income has accrued to the wealthiest 20 percent of Americans during this period; and

''(8) The effects of the minimum wage are not felt only among the lowest income workers and families but also are felt in many middle-income families; and

''(9) The preponderance of evidence from economic studies of the effects of increases in federal and state minimum wages (including studies of state minimum wage increases in California and New Jersey) at the end of the 1980s and in the early 1990s suggests that the negative employment effects of such increases were slight to nonexistent; and

''(10) Legislation to raise the minimum wage to $5.15 an hour was introduced on February 14, 1995, but has not been debated by the Senate—

''Now, therefore, it is the sense of the Senate that the Senate should debate and vote on whether to raise the minimum wage before the end of the first session of the 104th Congress.

MURKOWSKI (AND JOHNSTON) AMENDMENT NO. 2980

Mr. DOMENICI (for MURKOWSKI, for himself and Mr. JOHNSTON) proposed an amendment to the bill S. 1357, supra; as follows:

(1) On page 304, line 20, delete ''follows:'' and insert in lieu thereof ''follows (except that all amounts in excess of $20,000,000 in fiscal year 2003 and all amounts in fiscal year 2004 shall not be available for obligation until fiscal year 2006):''.

(2) On page 361, line 7, delete ''thereafter,'' and insert in lieu thereof ''thereafter, except for fiscal years 2003 and 2004,''.

KENNEDY (AND OTHERS) AMENDMENT NO. 2981

Mr. KENNEDY (for himself, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. BINGAMAN, Mr. EXON, Mr. WELLSTONE, Mr. SIMON, and Mr. GRAHAM) proposed an amendment to the bill S. 1357, supra; as follows:

Strike section 12807.

WELLSTONE (AND FEINGOLD) AMENDMENT NO. 2982

Mr. WELLSTONE (for himself and Mr. FEINGOLD) proposed and amendment to the bill S. 1357, supra; as follows:

At the end of chapter 1 of subtitle I of title XII, insert:

SEC. ___. REPEAL OF EXPENSING OF INTANGIBLE DRILLING COSTS.

(a) FINDINGS.—The Senate finds that—

(1) this legislation, as reported by the Senate Committee on the Budget on October 23, 1995, significantly reduces funding for medicare and medicaid, student loans, food stamps, and other federal efforts critical to working families across the country, in order to pay for tax breaks to benefit primarily wealthy corporations and others;

(2) this legislation will significantly increase the tax burden on an estimated 17 million working families, by modifying the earned income tax credit, which has enjoyed longstanding bipartisan support;

(3) the Congressional Joint Tax Committee has estimated that tax expenditures cost the United States Treasury over $420 billion annually, and they estimate that amount will grow by $60 billion to over $480 billion annually by 1999;

(4) Congress should reduce the federal budget deficit in a way that is responsible, and that requires shared sacrifice by eliminating many of the special interest tax breaks and loopholes that have been embedded in the tax code for decades, making the tax system fairer, flatter and simpler;

(5) eliminating special interest tax breaks would enable Congress to do real tax reform, making the system fairer and more simple by flattening the current tax rate structure and eventually providing real tax relief for working families;

(6) the savings generated by eliminating these special tax breaks immediately can be used to reduce the deficit;

(b) ELIMINATION OF DEDUCTION FOR CERTAIN INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—Section 263 (relating to capital expenditures) is amended—

(1) by adding at the end of subsection (c) the following new sentence: ''This subsection shall not apply to costs paid or incurred in taxable years beginning after December 31, 1995.'', and

(2) by striking subsection (i).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1995.

(d) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

On page 1550, beginning with line 13, strike chapter 3 of subtitle B of title XII, and insert:

SEC. 12161. REVENUE LOCK BOX.

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from striking section 12161 and section 12162 as contained in the Balanced Budget Reconciliation Act of 1995 as reported by the Senate Committee on the Budget on October 23, 1995, in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. ___. ELIMINATION OF EXCLUSION FOR FOREIGN EARNED INCOME.

(a) IN GENERAL.—Subsection (a) of section 911 (relating to citizens or residents of the United States living abroad) is amended by striking ''subtitle,'' and all that follows and inserting ''subtitle—

''(1) for any taxable year beginning before January 1, 1996, the foreign earned income of such individual, and

''(2) for any taxable year, the housing cost amount of such individual.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

Strike section 12805 and insert:

SEC. 12805. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) REPEAL.—Section 936 is amended by adding at the end the following new subsection:

''(j) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1996.''

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1997 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

PRYOR (AND OTHERS) AMENDMENT NO. 2983

Mr. PRYOR (for himself, Mr. COHEN, Mrs. BOXER, Mr. BUMPERS, Mr. CONRAD, Mr. DODD, Mr. FEINGOLD, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, Mr. KOHL, Mr. GRAHAM, and Mr. REID) proposed an amendment to the bill S. 1357, supra; as follows:

Beginning on page 889, line 21, strike all through page 897, line 19, and insert the following:

''SEC. 2137. QUALITY ASSURANCE STANDARDS FOR NURSING FACILITIES.

''The provisions of section 1919, as in effect on the day before the date of the enactment of this title, shall apply to nursing facilities which furnish services under the State plan.

SIMON (AND OTHERS) AMENDMENT NO. 2984

Mr. SIMON (for himself, Mr. CONRAD, Mr. ROBB, and Mr. KERREY) proposed an amendment to the bill S. 1357, supra; as follows:

STATEMENT OF PURPOSE

The purpose of the Common Sense Balanced Budget Act of 1995 is to provide a credible proposal to balance the budget in seven years through real reductions in government programs, while maintaining a fundamental commitment to the needs of society. This proposal places deficit reduction first, without borrowing money of pay for ill-advised tax cuts. This proposal spreads the sacrifice, without dismantling Medicare, Medicaid, welfare, the Earned Income Tax Credit, discretionary spending, agriculture, education, or the environment.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(b) SHORT TITLE.—This Act may be cited as the ''Common Sense Balanced Budget Act of 1995''.

(c) TABLE OF CONTENTS.—

TITLE I—ENERGY, NATURAL RESOURCES AND ENVIRONMENT

Subtitle A—Energy

Sec. 1101. Privatization of uranium enrichment.

Sec. 1104. FEMA radiological emergency preparedness fees.

Subtitle B—Central Utah

Sec. 1121. Prepayment of certain repayment contracts between the United States and the Central Utah Water Conservancy District.

Subtitle C—Army Corps of Engineers

Sec. 1131. Regulatory Program Fund.

Subtitle D—Helium Reserve

Sec. 1141. Sale of helium processing and storage facility.

Subtitle E—Territories

Sec. 1151. Termination of annual direct assistance to Northern Mariana Islands.

TITLE II—AGRICULTURAL PROGRAMS

Sec. 2001. Short title and table of contents.

Subtitle A—Extension and Modification of Various Commodity Programs

Sec. 2101. Extension of loans, payments, and acreage reduction programs for wheat through 2002.

Sec. 2102. Extension of loans, payments, and acreage reduction programs for feed grains through 2002.

Sec. 2103. Extension of loans, payments, and acreage reduction programs for cotton through 2002.

Sec. 2104. Extension of loans, payments, and acreage reduction programs for rice through 2002.

Sec. 2105. Extension of loans and payments for oilseeds through 2002.

Sec. 2106. Increase in flex acres.

Sec. 2107. Reduction in 50/85 and 0/85 programs.

Subtitle B—Sugar

Sec. 2201. Extension and modification of sugar program.

Subtitle C—Peanuts

Sec. 2301. Extension of price support program for peanuts and related programs.

Sec. 2302. National poundage quotas and acreage allotments.
Sec. 2303. Sale, lease, or transfer of farm poundage quota.
Sec. 2304. Penalty for reentry of exported peanut products.
Sec. 2305. Price support program for peanuts.
Sec. 2306. Referendum regarding poundage quotas.
Sec. 2307. Regulations.

Subtitle D—Tobacco

Sec. 2401. Elimination of Federal budgetary outlays for tobacco programs.
Sec. 2402. Establishment of farm yield for Flue-cured tobacco based on individual farm production history.
Sec. 2403. Removal of farm reconstitution exception for Burley tobacco.
Sec. 2404. Reduction in percentage threshold for transfer of Flue-cured tobacco quota in cases of disaster.
Sec. 2405. Expansion of types of tobacco subject to no net cost assessment.
Sec. 2406. Repeal of reporting requirements relating to export of tobacco.
Sec. 2407. Repeal of limitation on reducing national marketing quota for Flue-cured and Burley tobacco.
Sec. 2408. Application of civil penalties under Tobacco Inspection Act.
Sec. 2409. Transfers of quota or allotment across county lines in a State.
Sec. 2410. Calculation of national marketing quota.
Sec. 2411. Clarification of authority to access civil money penalties.
Sec. 2412. Lease and transfer of farm marketing quotas for Burley tobacco.
Sec. 2413. Limitation on transfer of acreage allotments of other tobacco.
Sec. 2414. Good faith reliance on actions or advice of Department representatives.
Sec. 2415. Uniform forfeiture dates for Flue-cured and Burley tobacco.
Sec. 2416. Sale of Burley and Flue-cured tobacco marketing quotas for a farm by recent purchasers.

Subtitle E—Planting Flexibility

Sec. 2501. Definitions.
Sec. 2502. Crop and total acreage bases.
Sec. 2503. Planting flexibility.
Sec. 2504. Farm program payment yields.
Sec. 2505. Application of provisions.

Subtitle F—Miscellaneous Provisions

Sec. 2601. Limitations on amount of deficiency payments and land diversion payments.
Sec. 2602. Sense of Congress regarding certain Canadian trade practices.

TITLE III—COMMERCE

Sec. 3101. Spectrum auctions.
Sec. 3102. Federal Communications Commission fee collections
Sec. 3103. Auction of recaptured analog licenses.
Sec. 3104. Patent and trademark fees.
Sec. 3105. Repeal of authorization of transitional appropriations for the United States Postal Service.

TITLE IV—TRANSPORTATION

Sec. 4101. Extension of railroad safety fees.
Sec. 4102. Permanent extension of vessel tonnage duties.
Sec. 4103. Sale of Governors Island, New York.
Sec. 4104. Sale of air rights.

TITLE V—HOUSING PROVISIONS

Sec. 5101. Reduction of section 8 annual adjustment factors for units without tenant turnover.
Sec. 5102. Maximum mortgage amount floor for single family mortgage insurance.
Sec. 5103. Foreclosure avoidance and borrower assistance.

TITLE VI—INDEXATION AND MISCELLANEOUS ENTITLEMENT-RELATED PROVISIONS

Sec. 6101. Consumer Price Index.
Sec. 6103. Matching rate requirement for title XX block grants to States for social services.
Sec. 6104. Denial of unemployment insurance to certain high-income individuals.
Sec. 6105. Denial of unemployment insurance to individuals who voluntarily leave military service.

TITLE VII—MEDICAID REFORM

Subtitle A—Per Capita Spending Limit

Sec. 7001. Limitation on expenditures recognized for purposes of Federal financial participation.

Subtitle B—Medicaid Managed Care

Sec. 7101. Permitting greater flexibility for States to enroll beneficiaries in managed care arrangements.
Sec. 7102. Removal of barriers to provision of medicaid services through managed care.
Sec. 7103. Additional requirements for medicaid managed care plans.
Sec. 7104. Preventing fraud in medicaid managed care.
Sec. 7105. Assuring adequacy of payments to medicaid managed care plans and providers.
Sec. 7106. Sanctions for noncompliance by eligible managed care providers.
Sec. 7107. Report on public health services.
Sec. 7108. Report on payments to hospitals.
Sec. 7109. Conforming amendments.
Sec. 7110. Effective date; status of waivers.

Subtitle C—Additional Reforms of Medicaid Acute Care Program

Sec. 7201. Permitting increased flexibility in medicaid cost-sharing.
Sec. 7203. Delay in application of new requirements.
Sec. 7204. Deadline on action on waivers.

Subtitle D—National Commission on Medicaid Restructuring

Sec. 7301. Establishment of commission.
Sec. 7302. Duties of commission.
Sec. 7303. Administration.
Sec. 7304. Authorization of appropriations.
Sec. 7305. Termination.

Subtitle E—Restrictions on Disproportionate Share Payments

Sec. 7401. Reforming disproportionate share payments under State medicaid programs.

Subtitle F—Fraud Reduction

Sec. 7501. Monitoring payments for dual eligibles.
Sec. 7502. Improved identification systems.

TITLE VIII—MEDICARE

Sec. 8000. Short title; references in title; table of contents.

Subtitle A—Medicare Choice Program

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

Sec. 8001. Increasing choice under medicare.
Sec. 8002. Medicare Choice program.

''PART C—PROVISIONS RELATING TO MEDICARE CHOICE

''Sec. 1851. Requirements for Medicare Choice organizations.
''Sec. 1852. Requirements relating to benefits, provision of services, enrollment, and premiums.
''Sec. 1853. Patient protection standards.
''Sec. 1854. Provider-sponsored organizations.
''Sec. 1855. Payments to Medicare Choice organizations.
''Sec. 1856. Establishment of standards for Medicare Choice organizations and products.
''Sec. 1857. Medicare Choice certification.
''Sec. 1858. Contracts with Medicare Choice organizations.

Sec. 8003. Reports.
Sec. 8004. Transitional rules for current medicare HMO program.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

Sec. 8151. Modification of payment areas used to determine payments for physicians' services under medicare.

Subtitle C—Medicare Payments to Health Care Providers

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

Sec. 8201. One-year freeze in payments to providers.

PART 2—PROVISIONS AFFECTING DOCTORS

Sec. 8211. Payments for physicians' services.
Sec. 8212. Use of real GDP to adjust for volume and intensity.

PART 3—PROVISIONS AFFECTING HOSPITALS

Sec. 8221. Reduction in update for inpatient hospital services.
Sec. 8222. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 8223. Establishment of prospective payment system for outpatient services.
Sec. 8224. Reduction in medicare payments to hospitals for inpatient capital-related costs.
Sec. 8225. Moratorium on PPS exemption for long-term care hospitals.

PART 4—PROVISIONS AFFECTING OTHER PROVIDERS

Sec. 8231. Revision of payment methodology for home health services.
Sec. 8232. Limitation of home health coverage under part A.
Sec. 8233. Reduction in fee schedule for durable medical equipment.
Sec. 8234. Nursing home billing.
Sec. 8235. Freeze in payments for clinical diagnostic laboratory tests.

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

Sec. 8241. Teaching hospital and graduate medical education trust fund.
Sec. 8242. Reduction in payment adjustments for indirect medical education.

Subtitle D—Provisions Relating to Medicare Beneficiaries

Sec. 8301. Part B premium.
Sec. 8302. Full cost of medicare part B coverage payable by high-income individuals.
Sec. 8303. Expanded coverage of preventive benefits.

Subtitle E—Medicare Fraud Reduction

Sec. 8401. Increasing beneficiary awareness of fraud and abuse.
Sec. 8402. Beneficiary incentives to report fraud and abuse.
Sec. 8403. Elimination of home health overpayments.
Sec. 8404. Skilled nursing facilities.
Sec. 8405. Direct spending for anti-fraud activities under medicare.
Sec. 8406. Fraud reduction demonstration project.
Sec. 8407. Report on competitive pricing.

Subtitle F—Improving Access to Health Care

PART 1—ASSISTANCE FOR RURAL PROVIDERS

SUBPART A—RURAL HOSPITALS

Sec. 8501. Sole community hospitals. Medicare rural hospital flexibility Medicare dependent rural hospitals Propac recommendations on urban Medicare dependent hospitals. Payments to physicians assistants and nurse practioners.
Sec. 8504. Classification of rural referral centers.
Sec. 8505. Floor on area wage index.
Sec. 8506. Medical education.

SUBPART B—RURAL PHYSICIANS AND OTHER PROVIDERS

Sec. 8511. Provider incentives.
Sec. 8512. National Health Service Corps loan repayments excluded from gross income.
Sec. 8513. Telemedicine payment methodology.
Sec. 8514. Demonstration project to increase choice in rural areas.

PART 2—MEDICARE SUBVENTION

Sec. 8521. Medicare program payments for health care services provided in the military health services system.

Subtitle G—Other Provisions

Sec. 8601. Extension and expansion of existing secondary payer requirements.
Sec. 8602. Repeal of medicare and medicaid coverage data bank.
Sec. 8603. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 8604. Additional exclusion from coverage.
Sec. 8605. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.

Subtitle I—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

Sec. 8801. Establishment of Commission to prepare for the 21st century.

TITLE IX—WELFARE REFORM

Sec. 9000. Amendment of the Social Security Act.

Subtitle A—Temporary Employment Assistance

Sec. 9101. State plan.

Subtitle B—Make Work Pay

Sec. 9201. Transitional medicaid benefits.
Sec. 9202. Notice of availability required to be provided to applicants and former recipients of temporary family assistance, food stamps, and medicaid.
Sec. 9203. Notice of availability of earned income tax credit and dependent care tax credit to be included on W–4 form.
Sec. 9204. Advance payment of earned income tax credit through State demonstration programs.

Subtitle C—Work First

Sec. 9301. Work first program.
Sec. 9302. Regulations.
Sec. 9303. Applicability to States.

Subtitle D—Family Responsibility And Improved Child Support Enforcement

CHAPTER 1—ELIGIBILITY AND OTHER MATTERS CONCERNING TITLE IV–D PROGRAM CLIENTS

Sec. 9401. State obligation to provide paternity establishment and child support enforcement services.
Sec. 9402. Distribution of payments.
Sec. 9403. Due process rights.
Sec. 9404. Privacy safeguards.

CHAPTER 2—PROGRAM ADMINISTRATION AND FUNDING

Sec. 9411. Federal matching payments.
Sec. 9412. Performance-based incentives and penalties.
Sec. 9413. Federal and State reviews and audits.
Sec. 9414. Required reporting procedures.
Sec. 9415. Automated data processing requirements.
Sec. 9416. Director of CSE program; staffing study.
Sec. 9417. Funding for Secretarial assistance to State programs.
Sec. 9418. Reports and data collection by the Secretary.

CHAPTER 3—LOCATE AND CASE TRACKING

Sec. 9421. Central State and case registry.
Sec. 9422. Centralized collection and disbursement of support payments.
Sec. 9423. Amendments concerning income withholding.
Sec. 9424. Locator information from interstate networks.
Sec. 9425. Expanded Federal parent locator service.
Sec. 9426. Use of social security numbers.

CHAPTER 4—STREAMLINING AND UNIFORMITY OF PROCEDURES

Sec. 9431. Adoption of uniform State laws.
Sec. 9432. Improvements to full faith and credit for child support orders.
Sec. 9433. State laws providing expedited procedures.

CHAPTER 5—PATERNITY ESTABLISHMENT

Sec. 9441. Sense of the Congress.
Sec. 9442. Availability of parenting social services for new fathers.
Sec. 9443. Cooperation requirement and good cause exception.
Sec. 9444. Federal matching payments.
Sec. 9445. State laws concerning paternity establishment.
Sec. 9446. Outreach for voluntary paternity establishment.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

Sec. 9451. National Child Support Guidelines Commission.
Sec. 9452. Simplified process for review and adjustment of child support orders.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

Sec. 9461. Federal income tax refund offset.
Sec. 9462. Internal Revenue Service collection of arrears.
Sec. 9463. Authority to collect support from Federal employees.
Sec. 9464. Enforcement of child support obligations of members of the Armed Forces.
Sec. 9465. Motor vehicle liens.
Sec. 9466. Voiding of fraudulent transfers.
Sec. 9467. State law authorizing suspension of licenses.
Sec. 9468. Reporting arrearages to credit bureaus.
Sec. 9469. Extended statute of limitation for collection of arrearages.
Sec. 9470. Charges for arrearages.
Sec. 9471. Denial of passports for nonpayment of child support.
Sec. 9472. International child support enforcement.
Sec. 9473. Seizure of lottery winnings, settlements, payouts, awards, and bequests, and sale of forfeited property, to pay child support arrearages.
Sec. 9474. Liability of grandparents for financial support of children of their minor children.
Sec. 9475. Sense of the Congress regarding programs for noncustodial parents unable to meet child support obligations.

CHAPTER 8—MEDICAL SUPPORT

Sec. 9481. Technical correction to ERISA definition of medical child support order.

CHAPTER 9—FOOD STAMP PROGRAM REQUIREMENTS

Sec. 9491. Cooperation with child support agencies.
Sec. 9492. Disqualification for child support arrears.

CHAPTER 10—EFFECT OF ENACTMENT

Sec. 9498. Effective dates.
Sec. 9499. Severability.

Subtitle E—Teen Pregnancy And Family Stability

Sec. 9502. Supervised living arrangements for minors.
Sec. 9503. National clearinghouse on adolescent pregnancy.
Sec. 9504. Required completion of high school or other training for teenage parents.
Sec. 9505. Denial of Federal housing benefits to minors who bear children out-of-wedlock.

Subtitle F—SSI Reform

Sec. 9601. Definition and eligibility rules.
Sec. 9602. Eligibility redeterminations and continuing disability reviews.
Sec. 9603. Additional accountability requirements.
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TITLE I—ENERGY, NATURAL RESOURCES AND ENVIRONMENT

Subtitle A—Energy

SEC. 1101. PRIVATIZATION OF URANIUM ENRICHMENT.

(a) REFERENCE.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(b) PRODUCTION FACILITY.—Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking ''or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology''.

(c) DEFINITIONS.—Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: ''and any successor corporation established through privatization of the Corporation'';

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

''(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

''(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

''(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

''(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.'';

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

''(18) The term 'transition date' means July 1, 1993.''; and

(4) by redesignating the unredesignated paragraph (14) as paragraph (19).

(d) EMPLOYEES OF THE CORPORATION.—

(1) PARAGRAPH (2).—Paragraphs (1) and (2) of section 1305(e) (42 U.S.C. 2297b–4(e)(1)(2)) are amended to read as follows:

''(A) IN GENERAL.—It is the purpose of this subsection to ensure that the privatization of the Corporation shall not result in any adverse effects on the pension benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

''(B) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—The Corporation shall abide by the terms of the collective bargaining agreement in effect on the privatization date at each individual facility.''.

(2) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b–4(e)(4)) is amended—

(A) by striking ''AND DETAILEES'' in the heading;

(B) by striking the first sentence;

(C) in the second sentence, by inserting ''from other Federal employment'' after ''transfer to the Corporation''; and

(D) by striking the last sentence.

(e) MARKETING AND CONTRACTING AUTHORITY.—

(1) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(A) by amending the subsection heading to read ''MARKETING AUTHORITY.—''; and

(B) by striking the first sentence.

(2) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(A) in paragraph (2)(B), by adding at the end the following: ''The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract.''; and

(B) by adding at the end the following:

''(3) EFFECT OF TRANSFER.—

''(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

''(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

''(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.''.

(3) PRICING.—Section 1402 (42 U.S.C. 2297c–1) is amended to read as follows:

''SEC. 1402. PRICING.

''The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.''.

(4) LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c–2) is amended by adding at the end the following:

''(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—

''(1) RESPONSIBILITY OF THE DEPARTMENT; COSTS.—

''(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

''(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

''(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

''(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

''(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

''(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.''.

(5) LIABILITIES.—

(A) Subsection (a) of section 1406 (42 U.S.C. 2297c–5(a)) is amended—

(i) by inserting ''AND PRIVATIZATION'' after ''TRANSITION'' in the heading; and

(ii) by adding at the end the following: ''As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.''.

(B) Subsection (b) of section 1406 (42 U.S.C. 2297c–5(b)) is amended—

(i) by inserting ''AND PRIVATIZATION'' after ''TRANSITION'' in the heading; and

(ii) by adding at the end the following: ''As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.''.

(C) Subsection (d) of section 1406 (42 U.S.C. 2297c–5(d)) is amended—

(i) by inserting ''AND PRIVATIZATION'' after ''TRANSITION'' in the heading; and

(ii) by striking ''the transition date'' and inserting ''the privatization date (or, in the event the privatization date does not occur, the transition date)''.

(6) TRANSFER OF URANIUM.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and by inserting after section 1407 the following:

''SEC. 1408. TRANSFER OF URANIUM.

''The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.''.

(f) PRIVATIZATION OF THE CORPORATION.—

(1) ESTABLISHMENT OF PRIVATE CORPORATION.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

''SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

''(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

''(B) To undertake any and all activities as provided in its corporate charter.

''(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

''(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

''(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

''(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

''(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

''(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

''(iii) persons otherwise authorized by law to enter into such transactions;

''(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

''(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

''(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

''(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

''(A) all of the Corporation's assets, including all contracts, agreements, and leases, including all uranium enrichment contracts and power purchase contracts;

''(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

''(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B); and

''(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403.

''(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

''(5) TAX TREATMENT OF PRIVATIZATION.—

''(A) TRANSFER OF ASSETS OR MERGER.—No income, gain, or loss shall be recognized by any person by reason of the transfer of the Corporation's assets to, or the Corporation's merger with, the corporation established pursuant to subsection (a)(1) in connection with the privatization.

''(B) CANCELLATION OF DEBT AND COMMON STOCK.—No income, gain, or loss shall be recognized by any person by reason of any cancellation of any obligation or common stock of the Corporation in connection with the privatization.

''(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

''(c) LEGAL STATUS OF PRIVATE CORPORATION.—

''(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

''(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

''(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

''(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

''(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.''.

(2) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by paragraph (1)) is amended by adding at the end the following new section:

''SEC. 1504. OWNERSHIP LIMITATIONS.

''(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

''(b) APPLICATION.—Subsection (a) shall not apply—

''(1) to any employee stock ownership plan of the Corporation,

''(2) to underwriting syndicates holding shares for resale, or

''(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

''(c) No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

''(1) in the public offering of securities of the Corporation in the implementation of the privatization,

''(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

''(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.''.

(3) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by paragraph (2)) is amended by adding at the end the following new section:

''SEC. 1505. EXEMPTION FROM LIABILITY.

''(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

''(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.''.

(4) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by paragraph (3)) is amended by adding at the end the following new section:

''SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

''(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

''(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.''.

(5) APPLICATION OF PRIVATIZATION PROCEEDS.—Chapter 25 (as amended by paragraph (4)) is amended by adding at the end the following new section:

''SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

''The proceeds from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.''.

(6) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

''Sec. 1503. Establishment of private corporation.
''Sec. 1504. Ownership limitations.
''Sec. 1505. Exemption from liability.
''Sec. 1506. Resolution of certain issues.
''Sec. 1507. Application of privatization proceeds.''.

(7) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

''(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

''(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

''(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.''.

(8) PERIOD FOR CONGRESSIONAL REVIEW.—Section 1502(d) (42 U.S.C. 2297d–1(d)) is amended by striking ''less than 60 days after notification of the Congress'' and inserting ''less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)''.

(g) PERIODIC CERTIFICATION OF COMPLIANCE.—Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking ''ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1).'' and inserting ''PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.''.

(h) LICENSING OF OTHER TECHNOLOGIES.—Subsection (a) of section 1702 (42 U.S.C. 2297f–1(a)) is amended by striking ''other than'' and inserting ''including''.

(i) CONFORMING AMENDMENTS.—

(1) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS OF THE PRIVATIZATION DATE.—

(A) REPEALS.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(i) Section 1202.

(ii) Sections 1301 through 1304.

(iii) Sections 1306 through 1316.

(iv) Sections 1404 and 1405.

(v) Section 1601.

(vi) Sections 1603 through 1607.

(B) CONFORMING AMENDMENT.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(2) STATUTORY MODIFICATIONS.—As of such privatization date, the following shall take effect:

(A) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the ''United States Enrichment Corporation'' shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by subsection (f)(1)).

(B) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by striking ''the United States'' and all that follows through the period and inserting ''the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.''.

(C) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102–486.

(3) REVISION OF SECTION 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b–4) is amended—

(A) by repealing subsections (a), (b), (c), and (d), and

(B) in subsection (e)—

(i) by striking the subsection designation and heading,

(ii) by redesignating paragraphs (1) and (2) (as added by subsection (d)(1)) as subsections (a) and (b) and by moving the margins 2-ems to the left,

(iii) by striking paragraph (3), and

(iv) by redesignating paragraph (4) (as amended by subsection (d)(2)) as subsection (c), and by moving the margins 2-ems to the left.

SEC. 1102. MAKING PERMANENT NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Paragraph (3) of section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is repealed.

SEC. 1104. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

(a) IN GENERAL.—The Director of the Federal Emergency Management Agency may assess and collect fees applicable to persons subject to radiological emergency preparedness regulations issued by the Director.

(b) REQUIREMENTS.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner which reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.

(c) AMOUNT OF FEES.—The aggregate amount of fees assessed under subsection (a) in a fiscal year shall approximate, but not be less than, 100 percent of the amounts anticipated by the Director to be obligated for the radiological emergency preparedness program of the Agency for such fiscal year.

(d) DEPOSIT OF FEES IN TREASURY.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.

Subtitle B—Central Utah

SEC. 1121. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: ''The Secretary of the Interior shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of the municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under such terms and conditions as the Secretary deems appropriate to protect the interest of the United States, which shall be similar to the terms and conditions contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The District shall exercise its right to prepayment pursuant to this section by the end of fiscal year 2002.''.

Subtitle C—Army Corps of Engineers

SEC. 1131. REGULATORY PROGRAM FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the ''Army Civil Works Regulatory Program Fund'' (hereinafter in this section referred to as the ''Regulatory Program Fund'') into which shall be deposited fees collected by the Secretary of the Army pursuant to subsection (b). Amounts deposited into the Regulatory Program Fund are authorized to be appropriated to the Secretary of the Army to cover a portion of the expenses incurred by the Department of the Army in administering laws pertaining to the regulation of the navigable waters of the United States, including wetlands.

(b) REGULATORY FEES.—

(1) COLLECTION.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall establish fees for the evaluation of commercial permit applications, for the recovery of costs associated with the preparation of environmental impact statements required by the National Environmental Policy Act of 1969, and for the recovery of costs associated with wetlands delineations for major developments affecting wetlands. The Secretary shall collect such fees and deposit amounts collected pursuant to this paragraph into the Regulatory Program Fund.

(2) FEES.—The fees described in paragraph (1) shall be established by the Secretary of the Army at rates that will allow for the recovery of receipts at amounts sufficient to cover the costs for which the fees are established under paragraph (1).

Subtitle D—Helium Reserve

SEC. 1141. SALE OF HELIUM PROCESSING AND STORAGE FACILITY.

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

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

(c) AUTHORITY OF SECRETARY.—Sections 3, 4, and 5 are amended to read as follows:

''SEC. 3. AUTHORITY OF SECRETARY.

''(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—(1) The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as he deems fair, reasonable and necessary. The Secretary may grant leasehold rights to any such helium. The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium. Such agreements may be subject to such rules and regulations as may be prescribed by the Secretary.

''(2) Any agreement under this subsection shall be subject to the existing rights of any affected Federal oil and gas lessee. Each such agreement (and any extension or renewal thereof) shall contain such terms and conditions as deemed appropriate by the Secretary.

''(3) This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence at the enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after such date.

''(b) STORAGE, TRANSPORTATION AND SALE.—The Secretary is authorized to store, transport, and sell helium only in accordance with this Act.

''(c) MONITORING AND REPORTING.—The Secretary is authorized to monitor helium production and helium reserves in the United States and to periodically prepare reports regarding the amounts of helium produced and the quantity of crude helium in storage in the United States.

''SEC. 4. STORAGE AND TRANSPORTATION OF CRUDE HELIUM.

''(a) STORAGE AND TRANSPORTATION.—The Secretary is authorized to store and transport crude helium and to maintain and operate existing crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

''(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Effective one year after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except those activities described in subsection (a).

''(c) DISPOSAL OF FACILITIES.—(1) Within one year after the date of enactment of the Helium Act of 1995, the Secretary shall dispose of all facilities, equipment, and other real and personal property, together with all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium. The disposal of such property shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

''(2) All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f). All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

''(3) Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage and transportation of crude helium.

''(d) EXISTING CONTRACTS.—All contracts which were entered into by any person with the Secretary for the purchase by such person from the Secretary of refined helium and which are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the facilities referred to in subsection (c) are disposed of. Any costs associated with the termination of such contracts shall be paid from the helium production fund established under section 6(f).

''SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

''Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary is authorized and directed to impose fees on such person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal. All such fees received by the Secretary shall be treated as

moneys received under this Act for purposes of section 6(f).''.

(d) SALE OF CRUDE HELIUM.—Section 6 is amended as follows:

(1) Subsection (a) is amended by striking out ''from the Secretary'' and inserting ''from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary''.

(2) Subsection (b) is amended by inserting ''crude'' before ''helium'' and by adding the following at the end thereof: ''Except as may be required by reason of subsection (a), the Secretary shall not make sales of crude helium under this section in such amounts as will disrupt the market price of crude helium.''.

(3) Subsection (c) is amended by inserting ''crude'' before ''helium'' after the words ''Sales of'' and by striking ''together with interest as provided in this subsection'' and all that follows down through the period at the end of such subsection and inserting the following: ''all funds required to be repaid to the United States as of October 1, 1994 under this section (hereinafter referred to as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary as follows:

''(1) Divide the outstanding amount of such repayable amounts by the volume (in mcf) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned.

''(2) Adjust the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1994.''.

(4) Subsection (d) is amended to read as follows:

''(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.''.

(5) Subsection (e) is repealed.

(6) Subsection (f) is amended by inserting ''(1)'' after ''(f)'' and by adding the following at the end thereof:

''(2) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1). Upon repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the Treasury as General Revenues.''.

(e) ELIMINATION OF STOCKPILE.—Section 8 is amended to read as follows:

''SEC. 8. ELIMINATION OF STOCKPILE.

''(a) REVIEW OF RESERVES.—Not later than January 1, 2014 the Secretary shall review the known helium reserves in the United States and make a determination as to the expected life of the domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) at that time.

''(b) RESERVES BELOW 1 BCF IN 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) are less than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600 million cubic feet (mcf) by January 1, 2019. The sales shall be at such times and in such lots as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection. The price for all such sales, as determined by the Secretary in consultation with the helium industry, shall be such as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c) by the year 2019 with minimum market disruption. The date specified in this subsection for completion of such sales and for repayment of debt may be extended by the Secretary for a period of not to exceed 5 additional years if necessary in order to assure repayment of such debt with minimum market disruption.

''(c) RESERVES ABOVE 1 BCF IN 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) are more than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600 million cubic feet (mcf) by January 1, 2024. The sales shall be at such times and in such lots as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum disruption of the market for crude helium.

''(d) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves after the year 2014 shall not affect the duty of the Secretary to make sales of helium as provided in subsection (b) or (c), as the case may be.''.

(f) REPEAL OF AUTHORITY TO BORROW.—Sections 12 and 15 are repealed.

Subtitle E—Territories

SEC. 1151. TERMINATION OF ANNUAL DIRECT ASSISTANCE TO NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—No annual payment may be made under section 701, 702, or 704 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), for any fiscal year beginning after September 30, 1995.

(b) ELIMINATION OF 7-YEAR EXTENSIONS.—

(1) IN GENERAL.—The Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note), is amended by striking sections 3 and 4.

(2) CONFORMING CHANGES.—(A) Section 5 of the Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note) is redesignated as section 3.

(B) Section 3 of such Act, as redesignated by subparagraph (A) of this paragraph, is amended—

(i) by striking ''agreement identified in section 3 of this Act'' and inserting ''Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed June 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands''; and

(ii) by striking ''Interior and Insular Affairs'' and inserting ''Resources''.

TITLE II—AGRICULTURE

SEC. 2001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Agricultural Reconciliation Act of 1995''.

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

Sec. 2001. Short title; table of contents.

Subtitle A—Commodity Programs

Sec. 2101. Wheat, feed grain, and oilseed program.
Sec. 2102. Upland cotton program.
Sec. 2103. Rice program.
Sec. 2104. Peanut program.
Sec. 2105. Dairy program.
Sec. 2106. Sugar program.
Sec. 2107. Sheep industry transition program.
Sec. 2108. Suspension of permanent price support authority.
Sec. 2109. Extension of related price support provisions.
Sec. 2110. Effective date.

Subtitle B—Conservation

Sec. 2201. Environmental quality incentives program.

Subtitle C—Agricultural Promotion and Export Programs

Sec. 2301. Export enhancement program.

Subtitle A—Commodity Programs

SEC. 2101. WHEAT, FEED GRAIN, AND OILSEED PROGRAM.

(a) IN GENERAL.—Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended by adding the end the following:

''SEC. 116. MARKETING LOANS AND LOAN DEFICIENCY PAYMENTS FOR 1996 THROUGH 2002 CROPS OF WHEAT, FEED GRAINS, AND OILSEEDS.

''(a) DEFINITIONS.—In this section:

''(1) COVERED COMMODITIES.—The term 'covered commodities' means wheat, feed grains, and oilseeds.

''(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

''(3) OILSEEDS.—The term 'oilseeds' means soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or as designated by the Secretary, other oilseeds.

''(b) ADJUSTMENT ACCOUNT.—

''(1) DEFINITION OF PAYMENT BUSHEL OF PRODUCTION.—In this subsection, the term 'payment bushel of production' means—

''(A) in the case of wheat, 7/10 of a bushel;

''(B) in the case of corn, a bushel; and

''(C) in the case of other feed grains, a quantity determined by the Secretary.

''(2) ESTABLISHMENT.—The Secretary shall establish an Adjustment Account (referred to in this subsection as the 'Account') for making—

''(A) payments to producers of the 1996 through 2002 crops of covered commodities who participate in the marketing loan program established under subsection (c); and

''(B) payments to producers of the 1994 and 1995 crops of covered commodities that are authorized, but not paid, under sections 105B and 107B prior to the date of enactment of this section.

''(3) AMOUNT IN ACCOUNT.—The Secretary shall transfer from funds of the Commodity Credit Corporation into the Account—

''(A) $4,500,000,000 for fiscal year 1996; and

''(B) $2,800,000,000 for each of fiscal years 1997 through 2002;

to remain available until expended.

''(4) PAYMENTS.—The Secretary shall use funds in the Account to make payments to producers of wheat and feed grains in accordance with this subsection.

''(5) TIER 1 SUPPORT.—

''(A) IN GENERAL.—The producers on a farm referred to in paragraph (2) shall be entitled to a payment computed by multiplying—

''(i) the payment quantity determined under subparagraph (B); by

''(ii) the payment factor determined under subparagraph (C).

''(B) PAYMENT QUANTITY.—

''(i) IN GENERAL.—Subject to clause (ii), the payment quantity for payments under subparagraph (A) shall be determined by the Secretary based on—

''(I) 90 percent of the 5-year average of the quantity of wheat and feed grains produced on the farm;

''(II) an adjustment to reflect any disaster or other circumstance beyond the control of the producers that adversely affected production of wheat or feed grains, as determined by the Secretary; and

''(III) an adjustment for planting resource conservation crops on the crop acreage base for covered commodities, and adopting conserving uses, on the base not enrolled in the environmental reserve program provided in paragraph (6).

''(ii) LIMITATIONS.—The quantity determined under clause (i) for an individual, directly or indirectly, shall not exceed 22,000 payment bushels of wheat or feed grains and may be adjusted by the Secretary to reflect the availability of funds.

''(C) PAYMENT FACTOR.—

''(i) WHEAT.—The payment factor for wheat under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $4.00 per bushel, and the greater of—

''(I) the marketing loan rate for the crop of wheat; or

''(II) the average domestic price for wheat for the crop for the calendar year in which the crop is normally harvested.

''(ii) CORN.—The payment factor for corn under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $2.75 per bushel, and the greater of—

''(I) the marketing loan rate for the crop of corn; or

''(II) the average domestic price for corn for the crop for the calendar year in which the crop is normally harvested;

''(iii) OTHER FEED GRAINS.—The payment factor for other feed grains under subparagraph (A) shall be established by the Secretary at such level as the Secretary determines is fair and reasonable in relation to the payment factor for corn.

''(D) ADVANCE PAYMENT.—The Secretary shall make available to producers on a farm 50 percent of the projected payment under this subsection at the time the producers agree to participate in the program.

''(6) ENVIRONMENTAL RESERVE PROGRAM.—

''(A) IN GENERAL.—The Secretary may enter into 1 to 5 year contracts with producers on a farm referred to in paragraph (2) for the purposes of enrolling flexible acreage base for conserving use purposes.

''(B) LIMITATION.—Flexible acreage base enrolled in the environmental reserve program shall not be eligible for benefits provided in paragraph (5)(B).

''(c) MARKETING LOANS.—

''(1) IN GENERAL.—The Secretary shall make available to producers on a farm marketing loans for each of the 1996 through 2002 crops of covered commodities produced on the farm.

''(2) ELIGIBILITY.—

''(A) IN GENERAL.—To be eligible for a loan under this subsection, the producers on a farm may not plant covered commodities on the farm in excess of the flexible acreage base of the farm determined under section 502.

''(B) AMOUNT.—The Secretary shall provide marketing loans for their normal production of covered commodities produced on a farm.

''(3) LOAN RATE.—Loans made under this subsection shall be made at the rate of 95 percent of the average price for the commodity for the previous 5 crop years, as determined by the Secretary.

''(4) REPAYMENT.—

''(A) CALCULATION.—Producers on a farm may repay loans made under this subsection for a crop at a level that is the lesser of—

''(i) the loan level determined for the crop; or

''(ii) the prevailing domestic market price for the commodity (adjusted to location and quality), as determined by the Secretary.

''(B) PREVAILING DOMESTIC MARKET PRICE.—The Secretary shall prescribe by regulation—

''(i) a formula to determine the prevailing domestic market price for each covered commodity; and

''(ii) a mechanism by which the Secretary shall announce periodically the prevailing domestic market prices established under this subsection.

''(d) LOAN DEFICIENCY PAYMENTS.—

''(1) IN GENERAL.—The Secretary may, for each of the 1996 through 2002 crops of covered commodities, make payments (referred to in this subsection as 'loan deficiency payments') available to producers who, although eligible to obtain a marketing loan under subsection (c), agree to forgo obtaining the loan in return for payments under this subsection.

''(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

''(A) the loan payment rate; by

''(B) the quantity of a covered commodity the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

''(3) LOAN PAYMENT RATE.—

''(A) IN GENERAL.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

''(i) the marketing loan rate determined for the crop under subsection (c)(3); exceeds

''(ii) the level at which a loan may be repaid under subsection (c)(4).

''(B) DATE.—The date on which the calculation required under subparagraph (A) for the producers on a farm shall be determined by the producers, except that the date may not be later than the earlier of—

''(i) the date the producers lost beneficial interest in the crop; or

''(ii) the end of the marketing year for the crop.

''(4) APPLICATION.—Producers on a farm may apply for a payment for a covered commodity under this subsection at any time prior to the end of the marketing year for the commodity.

''(e) PROGRAM COST LIMITATION.—

''(1) IN GENERAL.—If the Secretary determines that the costs of providing marketing loans and loan deficiency payments for covered commodities under this section will exceed an amount of $9,000,000,000 for the 1996 through 2002 fiscal years, the Secretary shall carry out a program cost limitation program to ensure that the cost of providing marketing loans and loan deficiency payments do not exceed the amount.

''(2) TERMS.—If the Secretary determines that a program cost limitation program is required for a crop year, the Secretary shall carry out for the crop year—

''(A) a proportionate reduction in the number of bushels that a producer may directly or indirectly place under loan;

''(B) a limitation on the number of bushels the producers on a farm may directly or indirectly place under loan;

''(C) an acreage limitation program; or

''(D) any combination of actions described in subparagraphs (A), (B), and (C).

''(3) LIMITATION.—The program cost limitation program may only be applied to a crop of a covered commodity for which the domestic price is projected, by the Secretary, to be less than the 5-year average price for the commodity.

''(4) ANNOUNCEMENTS.—If the Secretary elects to implement a program cost limitation program for any crop year, the Secretary shall make an announcement of the program not later than—

''(A) in the case of wheat, June 1 of the calendar year preceding the year in which the crop is harvested; and

''(B) in the case of feed grains and oilseeds, September 30 of the calendar year preceding the year in which the crop is harvested, and

''(f) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

''(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

''(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

''(i) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interest of tenants and sharecroppers.

''(j) CROPS.—This section shall be effective only for the 1996 through 2002 crops of a covered commodity.''.

(b) FLEXIBLE ACREAGE BASE.—

(1) DEFINITIONS.—Section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462) is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

''(3) GO CROPS.—The term 'GO crops' means wheat, feed grains, and oilseeds.

''(4) OILSEEDS.—The term 'oilseed' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

''(5) PROGRAM CROP.—The term 'program crop' means a GO crop and a crop of upland cotton or rice.''.

(2) CROP ACREAGE BASES.—Section 503(a) of the Act (7 U.S.C. 1463(a)) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—

''(A) GO CROPS.—The Secretary shall provide for the establishment and maintenance of a single crop acreage base for GO crops, including any GO crops produced under an established practice of double cropping.

''(B) COTTON AND RICE.—The Secretary shall provide for the establishment and maintenance of crop acreage bases for cotton and rice crops, including any program crop produced under an established practice of double cropping.''.

SEC. 2102. UPLAND COTTON PROGRAM.

(a) EXTENSION.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444–2) is amended—

(1) in the section heading, by striking ''**1997**'' and inserting ''**2002**'';

(2) in subsections (a)(1), (b)(1), (c)(1), and (o), by striking ''1997'' each place it appears and inserting ''2002'';

(3) in subsection (a)(5), by striking ''1998'' each place it appears and inserting ''2002'';

(4) in the heading of subsection (c)(1)(D)(v)(II), by striking ''1997'' and inserting ''2002'';

(5) in subsection (e)(1)(D), by striking ''the 1997 crop'' and inserting ''each of the 1997 through 2002 crops''; and

(6) in subsections (e)(3)(A) and (f)(1), by striking ''1995'' each place it appears and inserting ''2002''.

(b) INCREASE IN NONPAYMENT ACRES.—Section 103B(c)(1)(C) of the Act is amended by striking ''85 percent'' and inserting ''77.5 percent for each of the 1996 through 2002 crops''.

SEC. 2103. RICE PROGRAM.

(a) EXTENSION.—Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441–2) is amended—

(1) in the section heading, by striking ''**1995**'' and inserting ''**2002**'';

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking ''1995'' each place it appears and inserting ''2002'';

(3) in subsection (a)(5)(D)(i), by striking ''1996'' and inserting ''2003''; and

(4) in subsection (c)(1)—

(A) in subparagraph (B)(ii)—

(i) by striking ''AND 1995'' and inserting ''THROUGH 2002''; and

(ii) by striking ''and 1995'' and inserting ''through 2002''; and

(B) in subparagraph (D)—

(i) in clauses (i) and (v)(II), by striking ''1997'' each place it appears and inserting ''2002''; and

(ii) in the heading of clause (v)(II), by striking ''1997'' and inserting ''2002''.

(b) INCREASE IN NONPAYMENT ACRES.—Section 101B(c)(1)(C)(ii) of the Act is amended by striking ''85 percent'' and inserting ''77.5 percent for each of the 1998 through 2002 crops''.

SEC. 2104. PEANUT PROGRAM.

(a) EXTENSION.—

(1) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(A) in the section heading, by striking ''**1997**'' and inserting ''**2002**'';

(B) in subsection (a)(1), (b)(1), and (h), by striking ''1997'' each place it appears and inserting ''2002''; and

(C) in subsection (g)—

(i) by striking ''1997'' in paragraphs (1) and (2)(A)(ii)(II) and inserting ''2002''; and

(ii) by striking ''the 1997 crop'' each place it appears and inserting ''each of the 1997 through 2002 crops''.

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1 (7 U.S.C. 1358–1)—

(i) in the section heading, by striking ''**1997**'' and inserting ''**2002**''; and

(ii) in subsections (a)(1), (b), and (f), by striking ''1997'' each place it appears and inserting ''2002'';

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking ''**1995**'' and inserting ''**2002**''; and

(ii) in subsection (c), by striking ''1995'' and inserting ''2002'';

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking ''1995'' and inserting ''2002''; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking ''**1997**'' and inserting ''**2002**''; and

(ii) in subsection (i), by striking ''1997'' and inserting ''2002''.

(b) SUPPORT RATES FOR PEANUTS.—Section 108B(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445c–3(a)(2)) is amended—

(1) by striking ''(2) SUPPORT RATES.—The'' and inserting the following:

''(2) SUPPORT RATES.—

''(A) 1991–1995 CROPS.—The''; and

(2) by adding at the end the following:

''(B) 1996–2002 CROPS.—The national average quota support rate for each of the 1996 through 2002 crops of quota peanuts shall be $678 per ton.''.

(c) UNDERMARKETINGS.—

(1) IN GENERAL.—Section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)) is amended—

(A) in paragraph (7), by adding at the end the following::

''(C) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested or marketed may be transferred to the quota loan pool for pricing purposes at the quota price on such basis as the Secretary shall be regulation provide, except that the poundage of the peanuts so transferred shall not exceed the difference in the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm and the total farm poundage quota.''; and

(B) by striking paragraphs (8) and (9).

(2) CONFORMING AMENDMENTS.—Section 358b(a) of the Act (7 U.S.C. 1358b(a)) is amended—

(A) in paragraph (1)(A), by striking ''undermarketings and''; and

(B) in paragraph (3), by striking ''(including any applicable undermarketings)''.

SEC. 2105. DAIRY PROGRAM.

(a) PRICE SUPPORT.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(1) in the section heading, by striking ''**1996**'' and inserting ''**2002**'';

(2) in subsections (a), (b), (f), (g), and (k), by striking ''1996'' each place it appears and inserting ''2002'';

(3) in subsection (h)(2)(C), by striking ''and 1997'' and inserting ''through 2002''.

(b) SUPPORT PRICE FOR BUTTER AND POWDERED MILK.—Section 204(c)(3) of the Act is amended—

(1) in subparagraph (A), by striking ''Subject to subparagraph (B), the'' and inserting ''The'';

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) SUPPORT RATE.—Section 204(d) of the Act is amended—

(1) by striking paragraphs (1) through (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (1) and (2) respectively.

SEC. 2106. SUGAR PROGRAM.

(a) IN GENERAL.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

''SEC. 206. SUGAR SUPPORT FOR 1996 THROUGH 2002 CROPS.

''(a) DEFINITIONS.—In this section:

''(1) AGREEMENT ON AGRICULTURE.—The term 'Agreement on Agriculture' means the Agreement on Agriculture resulting from the Uruguay Round of Multilateral Trade Negotiations.

''(2) MAJOR COUNTRY.—The term 'major country' includes—

''(A) a country that is allocated a share of the tariff rate quota for imported sugars and syrups by the United States Trade Representative pursuant to additional U.S. note 5 to chapter 17 of the Harmonized Tariff Schedule;

''(B) a country of the European Union; and

''(C) the People's Republic of China.

''(3) MARKET.—The term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and delivery to a buyer.

''(4) TOTAL ESTIMATED DISAPPEARANCE.—The term 'total estimated disappearance' means the quantity of sugar, as estimated by the Secretary, that will be consumed in the United States during a fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in a sugar-containing product), plus the quantity of sugar that would provide for adequate carryover stocks.

''(b) PRICE SUPPORT.—The price of each of the 1996 through 2002 crops of sugar beets and sugarcane shall be supported in accordance with this section.

''(c) SUGARCANE.—Subject to subsection (e), the Secretary shall support the price of domestically grown sugarcane through loans at a support level of 18 cents per pound for raw cane sugar.

''(d) SUGAR BEETS.—Subject to subsection (e), the Secretary shall support the price of each crop of domestically grown sugar beets through loans at the level provided for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

''(e) ADJUSTMENT IN SUPPORT LEVEL.—

''(1) DOWNWARD ADJUSTMENT IN SUPPORT LEVEL.—

''(A) IN GENERAL.—The Secretary shall decrease the support price of domestically grown sugarcane and sugar beets from the level determined for the preceding crop, as determined under this section, if the quantity of negotiated reductions in export and domestic subsidies of sugar that apply to the European Union and other major countries in the aggregate exceed the quantity of the reductions in the subsidies agreed to under the Agreement of Agriculture.

''(B) EXTENT OF REDUCTION.—The Secretary shall not reduce the level of price support under subparagraph (A) below a level that provides an equal measure of support to the level provided by the European Union or any other major country through domestic and export subsidies that are subject to reduction under the Agreement on Agriculture.

''(2) INCREASES IN SUPPORT LEVEL.—The Secretary may increase the support level for each crop of domestically grown sugarcane and sugar beets from the level determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, the amount of any applicable assessments, and other factors or circumstances that may adversely affect domestic sugar production.

''(f) LOAN TYPE; PROCESSOR ASSURANCES.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall carry out this section by making recourse loans to sugar producers.

''(2) MODIFICATION.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level that exceeds the minimum level for the imports committed to by the United States under the Agreement on Agriculture, the Secretary shall carry out this section by making nonrecourse loans available to sugar producers. Any recourse loan previously made available by the Secretary and not repaid under this section during the fiscal year shall be converted into a nonrecourse loan.

''(3) PROCESSOR ASSURANCES.—To effectively support the prices of sugar beets and sugarcane received by a producer, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate that, if the Secretary is required under paragraph (2) to make nonrecourse loans available, or convert recourse loans into nonrecourse loans, each producer served by the processor will receive the appropriate minimum payment for sugar beets and sugarcane delivered by the producer, as determined by the Secretary.

''(g) ANNOUNCEMENTS.—The Secretary shall announce the type of loans available and the loan rates for beet and cane sugar for any fiscal year under this section as far in advance as is practicable.

''(h) LOAN TERM.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (i), a loan under

this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

''(2) EXTENSION.—The maturity of a loan under this section may be extended for up to 2 additional 3-month periods, at the option of the borrower, except that the maturity of a loan may not be extended under this paragraph beyond the end of the fiscal year.

''(i) SUPPLEMENTARY LOANS.—Subject to subsection (e), the Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. The loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

''(1) be made at the loan rate in effect at the time the second loan is made; and

''(2) mature in not more than 9 months, less the quantity of time that the first loan was in effect.

''(j) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

''(k) MARKETING ASSESSMENTS.—

''(1) IN GENERAL.—Assessments shall be collected in accordance with this subsection with respect to all sugar marketed within the United States during the 1996 through 2002 fiscal years.

''(2) BEET SUGAR.—The first seller of beet sugar produced from domestic sugar beets or domestic sugar beet molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1894 percent of the loan level established under subsection (d) per pound of sugar marketed.

''(3) CANE SUGAR.—The first seller of raw cane sugar produced from domestic sugarcane or domestic sugarcane molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.11 percent of the loan level established under subsection (c) per pound of sugar marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

''(4) COLLECTION.—

''(A) TIMING.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation not later than 30 days after the date that the sugar is marketed.

''(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

''(5) PENALTIES.—If any person fails to remit an assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise fails to comply with this subsection, the person shall be liable to the Secretary for a civil penalty of not more than an amount determined by multiplying—

''(A) the quantity of sugar involved in the violation; by

''(B) the loan level for the applicable crop of sugarcane or sugar beets from which the sugar is produced.

For the purposes of this paragraph, refined sugar shall be treated as produced from sugar beets.

''(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

''(l) INFORMATION REPORTING.—

''(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

''(2) DUTY OF PRODUCERS TO REPORT.—To efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

''(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, required under this subsection shall be subject to a civil penalty of not more than $10,000 for each such violation.

''(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

''(m) SUGAR ESTIMATES.—

''(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the domestic sugar requirement of the United States in an amount that is equal to the total estimated disappearance, minus the quantity of sugar that will be available from carry-in stocks.

''(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year not later than the beginning of each of the second through fourth quarters of the fiscal year.

''(n) CROPS.—This section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.''.

(b) MARKETING QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 2107. SHEEP INDUSTRY TRANSITION PROGRAM.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) is amended by adding at the end the following:

''SEC. 208. SHEEP INDUSTRY TRANSITION PROGRAM.

''(a) LOSS.—

''(1) IN GENERAL.—The Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title as determined by the Secretary, make available for each of the 1996 through 1999 marketing years recourse loans for wool at a loan level, per pound, that is not less than the smaller of—

''(A) the average price (weighted by market and month) of the base quality of wool at average location in the United States as quoted during the 5-marketing year period preceding the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

''(B) 90 percent of the average price for wool projected for the marketing year in which the loan level is announced, as determined by the Secretary.

''(2) ADJUSTMENTS TO LOAN LEVEL.—

''(A) LIMITATION ON DECREASE IN LOAN LEVEL.—The loan level for any marketing year determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding marketing year, and may not be reduced below 50 cents per pound.

''(B) LIMITATION ON INCREASE IN LOAN LEVEL.—If for any marketing year the average projected price determined under paragraph (1)(B) is less than the average United States market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States market price determined under paragraph (1)(A).

''(C) ADJUSTMENT FOR QUALITY.—

''(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the Secretary may adjust the loan level of a loan made under this section with respect to a quantity of wool to more accurately reflect the quality of the wool, as determined by the Secretary.

''(ii) ESTABLISHMENT OF GRADING SYSTEM.—To allow producers to establish the quality of wool produced on a farm, the Secretary shall establish a grading system for wool, based on micron diameter of the fibers in the wool.

''(iii) FEES.—The Secretary may charge each person that requests a grade for a quantity of wool a fee to offset the costs of testing and establishing a grade for the wool.

''(iv) TESTING FACILITIES.—To the extent practicable, the Secretary may certify State, local, or private facilities to carry out the grading of wool for the purpose of carrying out this subparagraph.

''(3) ANNOUNCEMENT OF LOAN LEVEL.—The loan level for any marketing year of wool shall be determined and announced by the Secretary not later than December 1 of the calendar year preceding the marketing year for which the loan is to be effective or, in the case of the 1996 marketing year, as soon as is practicable after December 1, 1995.

''(4) TERM OF LOAN.—

''(A) IN GENERAL.—Recourse loans provided for in this section may be made for an initial term of 9 months from the first day of the month in which the loan is made.

''(B) EXTENSIONS.—Except as provided in subparagraph (C), recourse loans provided for in this section shall, on request of the producer during the 9th month of the loan period for the wool, be made available for an additional term of 8 months.

''(C) LIMITATION.—A request to extend the loan period shall not be approved in any month in which the average price of the base quality of wool, as determined by the Secretary, in the designated markets for the preceding month exceeded 130 percent of the average price of the base quality of wool in the designated United States markets for the preceding 36-month period

''(5) MARKETING LOAN PROVISIONS.—If the Secretary determines that the prevailing world market price for wool (adjusted to United States quality and location) is below the loan level determined under paragraphs (1) through (4), to make United States wool competitive, the Secretary shall permit a producer to repay a loan made for any marketing year at the lesser of—

''(A) the loan level determined for the marketing year; or

''(B) the higher of—

''(i) the loan level determined for the marketing year multiplied by 70 percent; or

''(ii) the prevailing world market price for wool (adjusted to United States quality and location), as determined by the Secretary.

''(6) PREVAILING WORLD MARKET PRICE.—

''(A) IN GENERAL.—The Secretary shall prescribe by regulation—

''(i) a formula to define the prevailing world market price for wool (adjusted to United States quality and location); and

''(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wool (adjusted to United States quality and location).

''(B) USE.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be used to carry out paragraph (5).

''(C) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.—

''(i) IN GENERAL.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be further adjusted if the adjusted prevailing world market price is less than 115 percent of the current marketing year loan level for the base quality of wool, as determined by the Secretary.

''(ii) FURTHER ADJUSTMENT.—The adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

''(I) The United States share of world exports.

''(II) The current level of wool export sales and wool export shipments.

''(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for wool (adjusted to United States quality and location).

''(D) MARKET PRICE QUOTATION.—The Secretary may establish a system to monitor and make available on a weekly basis information with respect to the most recent average domestic and world market prices for wool.

''(7) PARTICIPATION.—The Secretary may make loans available under this subsection to producers, cooperatives, or marketing pools.

''(b) LOAN DEFICIENCY PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall, for each of the 1996 through 1999 marketing years of wool, make payments available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

''(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

''(A) the loan payment rate; by

''(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

''(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

''(A) the loan level determined for the marketing year under subsection (a); exceeds

''(B) the level at which a loan may be repaid under subsection (a).

''(c) DEFICIENCY PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall make available to producers deficiency payments for each of the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

''(A) the payment rate; by

''(B) the payment quantity of wool for the marketing year.

''(2) PAYMENT RATE.—

''(A) IN GENERAL.—The payment rate for wool shall be the amount by which the established price for the marketing year of wool exceeds the higher of—

''(i) the national average market price received by producers during the marketing year, as determined by the Secretary; or

''(ii) the loan level determined for the marketing year.

''(B) MINIMUM ESTABLISHED PRICE.—The established price for wool shall not be less than $2.12 per pound on a grease wool basis for each of the 1996 through 1999 marketing years.

''(3) PAYMENT QUANTITY.—Payment quantity of wool for a marketing year shall be the number of pounds of wool produced during the marketing year.

''(d) EQUITABLE RELIEF.—

''(1) LOANS AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

''(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

''(e) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

''(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

''(g) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

''(h) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

''(i) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

''(j) CROSS-COMPLIANCE.—

''(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with marketing year acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this section.

''(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the wool program with respect to any other farm operated by the producers.

''(k) LIMITATION ON OUTLAYS.—

''(1) IN GENERAL.—The total amount of payments that may be made available to all producers under this section may not exceed—

''(A) $75,000,000, during any single marketing year; or

''(B) $200,000,000 in the aggregate for marketing years 1996 through 1999.

''(2) PRORATION OF BENEFITS.—To the extent that the total amount of benefits for which producers are eligible under this section exceeds the limitations in paragraph (1), funds made available under this section shall be prorated among all eligible producers.

''(3) PERSON LIMITATION.—

''(A) LOANS.—No person may realize gains or receive payments under subsection (a) or (b) that exceed $75,000 during any marketing year.

''(B) DEFICIENCY PAYMENTS.—No person may receive payments under subsection (c) that exceed $50,000 during any marketing year.

''(l) MARKETING YEARS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 1999 marketing years for wool.''.

SEC. 2108. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) WHEAT.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1995, through May 31, 2003.

(2) SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(3) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled ''A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended'', approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(4) NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

(b) FEED GRAINS.—

(1) NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

(2) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e–1) is amended by striking ''1996'' and inserting ''2002''.

(c) OILSEEDS.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking ''oilseeds'' and all that follows through ''determine),''.

(d) UPLAND COTTON.—

(1) SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(2) MISCELLANEOUS COTTON PROVISIONS.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

(e) PEANUTS.—

(1) SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of peanuts:

(A) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(B) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(C) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(D) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(E) Section 371 (7 U.S.C. 1371).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before ''all brokers and dealers in peanuts'' the following: ''all producers engaged in the production of peanuts,''.

(3) SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1996 through 2002 crops of peanuts.

SEC. 2109. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

(a) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) is amended—

(1) in subsections (a)(1) and (c), by striking ''1997'' each place it appears and inserting ''2002''; and

(2) in subsection (b), by striking ''1995'' and inserting ''2002'';

(b) ADJUSTMENT OF ESTABLISHED PRICES.—Section 402(b) of the Agricultural Act of 1949 (7 U.S.C. 1422(b)) is amended by striking ''1995'' and inserting ''2002''.

(c) ADJUSTMENT OF SUPPORT PRICES.—Section 403(c) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking ''1995'' and inserting ''2002''.

(d) APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.—Section 408(k)(3) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)(3)) is amended by striking ''1995'' and inserting ''2002''.

(e) ACREAGE BASE AND YIELD SYSTEM.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in subsections (c)(3) and (h)(2)(A) of section 503 (7 U.S.C. 1463), by striking ''1997'' each place it appears and inserting ''2002'';

(2) in paragraphs (1) and (2) of section 505(b) (7 U.S.C. 1465(b)), by striking ''1997'' each place it appears and inserting ''2002''; and

(3) in section 509 (7 U.S.C. 1469), by striking ''1997'' and inserting ''2002''.

(f) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking ''1997'' each place it appears and inserting ''2002''.

(g) NORMALLY PLANTED ACREAGE.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by striking ''1995'' each place it appears in subsections (a), (b)(1), and (c) and inserting ''2002''.

(h) OPTIONS PILOT PROGRAM.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101–624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amended—

(1) in subsections (a) and (b) of section 1153, by striking ''1995'' each place it appears and inserting ''2002''; and

(2) in section 1154(b)(1)(A), by striking ''1995'' each place it appears and inserting ''2002''.

(i) FOOD SECURITY WHEAT RESERVE.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f–1(i)) is amended by striking ''1995'' each place it appears and inserting ''2002''.

SEC. 2110. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall apply beginning with the 1996 crop of an agricultural commodity.

(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary of Agriculture to carry out a price support, production adjustment, or payment program for—

(1) any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law as in effect immediately before the enactment of this Act; or

(2) the 1996 crop of an agricultural commodity established under section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)).

Subtitle B—Conservation

SEC. 2201. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is amended to read as follows:

''CHAPTER 2—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

''SEC. 1238. DEFINITIONS.

''In this chapter:

''(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or another land management practice the Secretary determines is needed to protect soil, water, or related resources in the most cost efficient manner.

''(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means a farm or ranch that—

''(A) is a confined animal feeding operation; and

''(B) has more than—

''(i) 700 mature dairy cattle;

''(ii) 1,000 beef cattle;

''(iii) 100,000 laying hens or broilers;

''(iv) 55,000 turkeys;

''(v) 2,500 swine; or

''(vi) 10,000 sheep or lambs.

''(3) LIVESTOCK.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

''(4) OPERATOR.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

''(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or another structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

''SEC. 1238A ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—During the 1996 through 2006 fiscal years, the Secretary shall enter into contracts with operators to provide technical assistance, cost-sharing payments, and incentive payments to operators, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

''(2) CONSOLIDATION OF EXISTING PROGRAMS.—In establishing the environmental quality incentives program authorized under this chapter, the Secretary shall combine into a single program the functions of—

''(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 201(b)(1) of the Agricultural Reconciliation Act of 1995);

''(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 201(b)(2) of the Agricultural Reconciliation Act of 1995);

''(C) the water quality incentives program established under this chapter (as in effect before amendment made by section 201(a) of the Agricultural Reconciliation Act of 1995); and

''(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 201(b)(3) of the Agricultural Reconciliation Act of 1995).

''(b) APPLICATION AND TERM.—

''(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—

''(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

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

''(2) CONTRACT EFFECTIVE DATE.—A contract between an operator and the Secretary under this chapter shall become effective on October 1st following the date the contract is fully entered into.

''(c) COST-SHARING AND INCENTIVE PAYMENTS.—

''(1) COST-SHARING PAYMENTS.—

''(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

''(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

''(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

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

''(d) TECHNICAL ASSISTANCE.—

''(1) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided in a fiscal year. The allocated amount may vary according to the type of expertise required quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided in a fiscal year.

''(2) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

''(e) FUNDING.—The Secretary shall use to carry out this chapter not less than—

''(1) $200,000,000 for fiscal year 1997; and

''(2) $250,000,000 for each of fiscal years 1998 through 2002.

''(f) COMMODITY CREDIT CORPORATION.—The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subchapter.

''SEC. 1238B. CONSERVATION PRIORITY AREAS.

''(a) IN GENERAL.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay region (located in Pennsylvania, Maryland, and Virginia), the Great Lakes region, the Long Island Sound region, prairie pothole region (located in North Dakota, South Dakota, and Minnesota), Rainwater Basin (located in Nebraska), and other areas the Secretary considers appropriate, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 1.

''(b) APPLICABILITY.—A designation shall be made under this section if an application is made by a State agency and agricultural practices within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary.

"SEC. 1238C. EVALUATION OF OFFERS AND PAYMENTS.

''(a) REGIONAL PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area under this chapter based on the significance of soil, water, and related natural resources problems in the region, watershed, or area, and the structural practices or land management practices that best address the problems, as determined by the Secretary.

''(b) MAXIMIZATION OF ENVIRONMENTAL BENEFITS.—

''(1) IN GENERAL.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in regions, watersheds, or conservation priority areas under this chapter, the Secretary shall accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended.

''(2) STATE OR LOCAL CONTRIBUTIONS.—The Secretary shall accord a higher priority to operators whose agricultural operations are located within watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to the operators for the same conservation or environmental purposes.

"SEC. 1238D. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

''(a) IN GENERAL.—Prior to approving cost-share or incentive payments authorized under this chapter, the Secretary shall require the preparation and evaluation of an environmental quality incentives program plan described in subsection (b), unless the Secretary determines that such a plan is not necessary to evaluate the application for the payments.

''(b) TERMS.—An environmental quality incentives program plan shall include (as determined by the Secretary) a description of relevant—

''(1) farming or ranching practices on the farm;

''(2) characteristics of natural resources on the farm;

''(3) specific conservation and environmental objectives to be achieved including those that will assist the operator in complying with Federal and State environmental laws;

''(4) dates for, and sequences of, events for implementing the practices for which payments will be received under this chapter; and

''(5) information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives, and that will enable evaluation of the degree to which the plan has been implemented.

"SEC. 1238E. LIMITATION ON PAYMENTS.

''(a) PAYMENTS.—The total amount of cost-share and incentive payments paid to a person under this chapter may not exceed—

''(1) $10,000 for any fiscal year; or

''(2) $50,000 for any multiyear contract.

''(b) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

''(1) defining the term 'person' as used in subsection (a); and

''(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations contained in subsection (a).''.

Subtitle C—Agricultural Promotion and Export Programs

SEC. 2301. EXPORT ENHANCEMENT PROGRAM.

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

''(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than $800,000,000 for fiscal year 1996.''.

Subtitle D—Nutrition Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 2401. TREATMENT OF CHILDREN LIVING AT HOME.

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

SEC. 2402. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.

Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the third sentence the following: ''Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without regard to the common purchase of food and preparation of meals.''.

(2) Current Government-to-Government and direct grower-to-grower discussions with Canada have failed to result in changes in Canadian trade practices.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of Agriculture and the United States Trade Representative should intensify efforts to resolve the Canadian potato trade concerns and begin to consider formal action under the dispute resolution procedures of the North American Free Trade Agreement or the General Agreement on Tariffs and Trade.

TITLE III—COMMERCE

SEC. 3101. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

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

''(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

''(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

''(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive:

''(B) for public safety radio services, including non-Government uses that protect the safety of life, health, and property and that are not made commercially available to the public; or

''(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses.''; and

(B) by striking ''1998'' in paragraph (11) and inserting ''2002''.

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of such Act is repealed.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bans can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section; or

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act.

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2001.

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

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services; and

(D) comply with the requirements of international agreements concerning spectrum allocations.

(3) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

''(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Seven-Year Balanced Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.'';

(2) in section 114(a)(1), by striking ''(a) or (d)(1)'' and inserting ''(a), (d)(1), or (f)''.

(d) COMPLETION OF C-BLOCK PCS AUCTION.—The Federal Communications Commission shall commence the Broadband Personal

Communications Services C-Block auction described in the Commission's Sixth Report and Order in DP Docket 93–253 (FCC 93–510, released July 18, 1995) not later than December 4, 1995. The Commission's competitive bidding rules governing such auction, as set forth in such Sixth Report and Order, are hereby ratified and adopted as a matter of Federal law.

(e) MODIFICATION OF AUCTION POLICY TO PRESERVE AUCTION VALUE OF SPECTRUM.—The voluntary negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established by the Commission's Third Report and Order in ET Docket No. 92–9, shall expire one year after the date of acceptance by the Commission of applications for such licensed emerging technology services. The mandatory negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established in such Third Report and Order, shall expire two years after the date of acceptance by the Commission of applications for such licensed emerging technology services.

(f) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting ''INITIAL REALLOCATION REPORT'';

(B) by inserting ''in the first report required by subsection (a)'' after ''recommend for reallocation'' in paragraph (1);

(C) by inserting ''or (3)'' after ''paragraph (1)'' each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

''(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).''; and

(2) in section 115—

(A) in subsection (b), by striking ''the report required by section 113(a)'' and inserting ''the initial reallocation report required by section 113(a)''; and

(B) by adding at the end the following new subsection:

''(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j).''.

SEC. 3102. FEDERAL COMMUNICATIONS COMMISSION FEE COLLECTIONS

(a) APPLICATION FEES.—

(1) ADJUSTMENT OF APPLICATION FEE SCHEDULE.—Section 8(b) of the Communications Act of 1934 (47 U.S.C. 158(b)) is amended to read as follows:

''(b)(1) For fiscal year 1996 and each fiscal year thereafter, the Commission shall, by regulation, modify the application fees by proportionate increases or decreases so as to result in estimated total collections for the fiscal year equal to—

''(A) $40,000,000; plus

''(B) an additional amount, specified in an appropriation Act for the Commission for that fiscal year to be collected and credited to such appropriation, not to exceed the amount by which the necessary expenses for the costs described in paragraph (5) exceeds $40,000,000.

''(2) In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest $5.00 in the case of fees under $100, or to the nearest $20 in the case of fees of $100 or more. The Commission shall transmit to the Congress notification of any adjustment made pursuant to this paragraph immediately upon the adoption of such adjustment.

''(3) The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraphs (1) and (4).

''(4) The Commission shall, by regulation, add, delete, or reclassify services, categories, applications, or other filings subject to application fees to reflect additions, deletions, or changes in the nature of its services or authorization of service processes as a consequence of Commission rulemaking proceedings or changes in law.

''(5) Any modified fees established under paragraph (4) shall be derived by determining the full-time equivalent number of employees performing application activities, adjusted to take into account other expenses that are reasonably related to the cost of processing the application or filing, including all executive and legal costs incurred by the Commission in the discharge of these functions, and other factors that the Commission determines are necessary in the public interest. The Commission shall—

''(A) transmit to the Congress notification of any proposed modification made pursuant to this paragraph immediately upon adoption of such proposal; and

''(B) transmit to the Congress notification of any modification made pursuant to this paragraph immediately upon adoption of such modification.

''(6) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.''.

(2) TREATMENT OF ADDITIONAL COLLECTIONS.—Section 8(e) of such Act is amended to read as follows:

''(e) Of the moneys received from fees authorized under this section—

''(1) $40,000,000 shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act; and

''(2) the remainder shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.''.

(3) SCHEDULE OF APPLICATION FEES FOR PCS.—The schedule of application fees in section 8(g) of such Act is amended by adding, at the end of the portion under the heading ''COMMON CARRIER SERVICES'', the following new item:

''23. Personal communications services	
''a. Initial or new application ...	230
''b. Amendment to pending application	35
''c. Application for assignment or transfer of control	230
''d. Application for renewal of license	35
''e. Request for special temporary authority	200
''f. Notification of completion of construction	35
''g. Request to combine service areas	50''.

(4) VANITY CALL SIGNS.—

(A) LIFETIME LICENSE FEES.—

(i) AMENDMENT.—The schedule of application fees in section 8(g) of such Act is further amended by adding, at the end of the portion under the heading ''PRIVATE RADIO SERVICES'', the following new item:

''11. Amateur vanity call signs . 150.00''.

(ii) TREATMENT OF RECEIPTS.—Moneys received from fees established under the amendment made by this subsection shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

(B) TERMINATION OF ANNUAL REGULATORY FEES.—The schedule of regulatory fees in section 9(g) of such Act (47 U.S.C. 159(g)) is amended by striking the following item from the fees applicable to the Private Radio Bureau:

''Amateur vanity call-signs ..... 7''.

(b) REGULATORY FEES.

(1) EXECUTIVE AND LEGAL COSTS.—Section 9(a)(1) of the Communications Act of 1934 (47 U.S.C. 159(a)(1)) is amended by inserting before the period at the end the following: '', and all executive and legal costs incurred by the Commission in the discharge of these functions''.

(2) ESTABLISHMENT AND ADJUSTMENT.—Section 9(b) of such Act is amended—

(A) in paragraph (4)(B), by striking ''90 days'' and inserting ''45 days''; and

(B) by adding at the end the following new paragraph:

''(5) EFFECTIVE DATE OF ADJUSTMENTS.—The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraph (2) or (3).''.

(3) REGULATORY FEES FOR SATELLITE TV OPERATIONS.—The schedule of regulatory fees in section 9(g) of such Act is amended, in the fees applicable to the Mass Media Bureau, by inserting after each of the items pertaining to construction permits in the fees applicable to VHF commercial and UHF commercial TV the following new item:

''Terrestrial television satellite operations ..... 500''.

(4) GOVERNMENTAL ENTITIES USE FOR COMMON CARRIER PURPOSES.—Section 9(h) of such Act is amended by adding at the end the following new sentence: ''The exceptions provided by this subsection for governmental entities shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.''.

(5) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF REGULATORY FEES.—Title I of such Act is amended—

(A) in section 9, by striking subsection (i); and

(B) by inserting after section 9 the following new section:

"SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFORMATION.

''(a) ACCOUNTING SYSTEM REQUIRED.—The Commission shall develop accounting systems for the purposes of making the adjustments authorized by sections 8 and 9. The Commission shall annually prepare and submit to the Congress an analysis of such systems and shall annually afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in section 8(a)(5) and 9(a)(1) in making such adjustments in the schedules required by sections 8 and 9.

''(b) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF APPLICATION AND REGULATORY FEES.—

''(1) SCHEDULE OF REQUESTED AMOUNTS.—No later than May 1 of each calendar year, the Commission shall prepare and transmit to the Committees of Congress responsible for the Commission's authorization and appropriations a detailed schedule of the amounts requested by the President's budget to be appropriated for the ensuing fiscal year for the activities described in sections 8(a)(5) and 9(a)(1), allocated by bureaus, divisions, and offices of the Commission.

''(2) EXPLANATORY STATEMENT.—If the Commission anticipates increases in the application fees or regulatory fees applicable to any applicant, licensee, or unit subject to payment of fees, the Commission shall submit to the Congress by May 1 of such calendar year a statement explaining the relationship between any such increases and either (A) increases in the amounts requested to be appropriated for Commission activities in connection with such applicants, licensees, or units subject to payment of fees, or (B) additional activities to be performed with respect to such applicants, licensees, or units.

''(3) DEFINITION.—For purposes of this subsection, the term 'amount requested by the President's budget' shall include any adjustments to such requests that are made by May 1 of such calendar year. If any such adjustment is made after May 1, the Commission shall provide such Committees with updated schedules and statements containing the information required by this subsection within 10 days after the date of any such adjustment.''.

SEC. 3103. AUCTION OF RECAPTURED ANALOG LICENSES.

(a) LIMITATIONS ON TERMS OF ANALOG TELEVISION LICENSES (''REVERSION DATE'').—The Commission shall not renew any analog television license for a period that extends beyond the earlier of December 31, 2005, or one year after the date the Commission finds, based on annual surveys conducted pursuant to subsection (b), that at least 95 percent of households in the United States have the capability to receive and display video signals, other than video signals transmitted pursuant to an analog television license. After such date, the Commission shall not issue any television licenses other than advanced television licenses.

(b) ANNUAL SURVEY.—The Secretary of Commerce shall, each calendar year from 1998 to 2005, conduct a survey to estimate the percentage of households in the United States that have the capability to receive and display video signals other than signals transmitted pursuant to an analog television license.

(c) SPECTRUM REVERSION.—The Commission shall ensure that, as analog television licenses expire pursuant to subsection (a), spectrum previously used for the broadcast of analog television signals is reclaimed and reallocated in such manner as to maximize the deployment of new services. Licensees for new services shall be selected by competitive bidding. The Commission shall complete the competitive bidding procedure by May 1, 2002.

(d) MINIMUM SERVICE OBLIGATION.—

(1) PROVISION OF CAPABILITY TO RECEIVE ADVANCED SERVICES.—The Commission shall, by regulation, establish procedures to ensure that, within the year prior to the reversion date defined in subsection (a), the advanced television licensees shall provide each household with the capability to receive and display video signals for advanced television services if such household requests such capability.

(2) PROVISION OF NONSUBSCRIPTION SERVICES.—Each advanced television service licensee shall provide, for at least a minimum of 5 years from the date identified in subsection (a), at least one nonsubscription video service that meets or exceeds minimum technical standards established by the Commission. In setting such minimum technical standards, the Commission shall, to the extent technically feasible, ensure that picture and audio quality are at least as good as that provided to recipients within the Grade B contour of an analog television license. The Commission shall revoke the license of any advanced television licensee who fails to meet this condition of the license.

(e) DEFINITIONS.—As used in this section:

(1) The term ''Commission'' means the Federal Communications Commission.

(2) The term ''advanced television services'' means television services provided using digital or other advanced technology to enhance audio quality and video resolution, as further defined in the Opinion, Report, and Order of the Commission entitled ''Advanced Television Systems and Their Impact Upon the Existing Television Service,'' MM Docket No. 87–268.

(3) The term ''analog television licenses'' means licenses issued pursuant to 47 C.F.R. 73.682 et seq.

SEC. 3104. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking ''1998'' and inserting ''2002'';

(2) in subsection (b)(2) by striking ''1998'' and inserting ''2002''; and

(3) in subsection (c)—

(A) by striking ''through 1998'' and inserting ''through 2002''; and

(B) by adding at the end the following:

''(9) $119,000,000 in fiscal year 1999.

''(10) $119,000,000 in fiscal year 2000.

''(11) $119,000,000 in fiscal year 2001.

''(12) $119,000,000 in fiscal year 2002.''.

SEC. 3105. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—(1) Section 2004 of title 39, United States Code, is repealed.

(2)(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking ''sections 2401 and 2004'' each place it appears and inserting ''section 2401''.

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

''(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.''.

TITLE IV—TRANSPORTATION

SEC. 4101. EXTENSION OF RAILROAD SAFETY FEES.

Subsection (e) of section 20115 of title 49, United States Code, is repealed.

SEC. 4102. PERMANENT EXTENSION OF VESSEL TONNAGE DUTIES.

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

(1) by striking ''for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 2 cents per ton not to exceed in the aggregate 10 cents per ton in any one year, for each fiscal year thereafter''; and

(2) by striking ''for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 6 cents per ton, not to exceed 30 cents per ton for each fiscal year thereafter''.

(b) CONFORMING AMENDMENT.—The Act entitled ''An Act concerning tonnage duties on vessels entering otherwise than by sea'', approved March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking ''for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998, and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any 1 year, for each fiscal year thereafter,''.

SEC. 4103. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 4104. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1995, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.

TITLE V—HOUSING PROVISIONS

SEC. 5101. REDUCTION OF SECTION 8 ANNUAL ADJUSTMENT FACTORS FOR UNITS WITHOUT TENANT TURNOVER.

Paragraph (2)(A) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by striking the last sentence.

SEC. 5102. MAXIMUM MORTGAGE AMOUNT FLOOR FOR SINGLE FAMILY MORTGAGE INSURANCE.

Subparagraph (A) of the first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by striking ''the greater of'' and all that follows through ''applicable size'' and inserting the following: ''50 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as adjusted annually under such section) for a residence of the applicable size''.

SEC. 5103. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) FORECLOSURE AVOIDANCE.—The last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: '': *And provided further*, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to foreclosure of a mortgage that is in default, which actions may include such actions as special forbearance, loan modification, and deeds in lieu of foreclosure, all upon such terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further*, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review''.

(b) AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.—Section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

''AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

''SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The Secretary may establish a program for payment of a partial insurance claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary, except that—

''(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

''(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

''(b) ASSIGNMENT.—

''(1) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

''(2) PROGRAM REQUIREMENTS.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

''(A) the mortgage was in default;

''(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay at interest rates not exceeding current market interest rates; and

''(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

''(3) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under the program under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund in an amount that the Secretary determines to be appropriate, but which may not exceed the amount necessary to compensate the mortgagee for the assignment and any losses resulting from the mortgage modification.

''(c) PROHIBITION OF JUDICIAL REVIEW.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.''.

(c) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary of Housing and Urban Development, before the date of the enactment of this Act, for assignment pursuant to section 230(b) of the National Housing Act shall continue to be governed by the provisions of such section, as in effect immediately before such date of enactment.

(d) APPLICABILITY OF OTHER LAWS.—No provision of the National Housing Act or any other law shall be construed to require the Secretary of Housing and Urban Development to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under the National Housing Act, or to accept assignments of such mortgages.

TITLE VI—INDEXATION AND MISCELLANEOUS ENTITLEMENT-RELATED PROVISIONS

SEC. 6101. CONSUMER PRICE INDEX.

(a) ADJUSTMENTS APPLICABLE TO INTERNAL REVENUE CODE PROVISIONS.—

(1) IN GENERAL.—Paragraph (3) of section 1(f) of the Internal Revenue Code of 1986 (defining cost-of-living adjustment) is amended by striking the period at the end and inserting a comma and by inserting at the end the following flush material:

''reduced by the number of percentage points determined under paragraph (8) for the calendar year for which such adjustment is being determined.''

(2) LIMITATION ON INCREASES.—Subsection (f) of section 1 of such Code is amended by adding at the end the following new paragraph:

''(8) LIMITATION ON INCREASES IN CPI.—

''(A) IN GENERAL.—The number of percentage points determined under this paragraph for any calendar year is—

''(i) in the case of calendar years 1996, 1997, and 1998, 0.5 percentage point, and

''(ii) in the case of calendar years 1999, 2000, 2001, and 2002, 0.3 percentage point.

''(B) COMPUTATION OF BASE TO REFLECT LIMITATION.—The Secretary shall adjust the number taken into account under paragraph (3)(B) so that any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period.''

(b) ADJUSTMENTS APPLICABLE TO CERTAIN ENTITLEMENT PROGRAMS.—

(1) IN GENERAL.—For purposes of determining the amount of any cost-of-living adjustment which takes effect for benefits payable after December 31, 1995, with respect to any benefit described in paragraph (5)—

(A) any increase in the relevant index (determined without regard to this subsection) shall be reduced by the number of percentage points determined under paragraph (2), and

(B) the amount of the increase in such benefit shall be equal to the product of—

(i) the increase in the relevant index (as reduced under subparagraph (A)), and

(ii) the average such benefit for the preceding calendar year under the program described in paragraph (5) which provides such benefit.

(2) LIMITATION ON INCREASES.—

(A) IN GENERAL.—The number of percentage points determined under this paragraph for any calendar year is—

(i) in the case of calendar years 1996, 1997, and 1998, 0.5 percentage point, and

(ii) in the case of calendar years 1999, 2000, 2001, and 2002, 0.3 percentage point.

(B) COMPUTATION OF BASE TO REFLECT LIMITATION.—Any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period.

(3) PARAGRAPH (1) TO APPLY ONLY TO COMPUTATION OF BENEFIT AMOUNTS.—Paragraph (1) shall apply only for purposes of determining the amount of benefits and not for purposes of determining—

(A) whether a threshold increase in the relevant index has been met, or

(B) increases in amounts under other provisions of law not described in paragraph (5) which operate by reference to increases in such benefits.

(4) DEFINITIONS.—For purposes of this subsection—

(A) COST-OF-LIVING ADJUSTMENT.—The term ''cost-of-living adjustment'' means any adjustment in the amount of benefits described in paragraph (5) which is determined by reference to changes in an index.

(B) INDEX.—

(i) INDEX.—The term ''index'' means the Consumer Price Index and any other index of price or wages.

(ii) RELEVANT INDEX.—The term ''relevant index'' means the index on the basis of which the amount of the cost-of-living adjustment is determined.

(5) BENEFITS TO WHICH SUBSECTION APPLIES.—For purposes of this subsection, the benefits described in this paragraph are—

(A) old age, survivors, and disability insurance benefits subject to adjustment under section 215(i) of the Social Security Act (but the limitation under paragraph (1) shall not apply to supplemental security income benefits under title XVI of such Act);

(B) retired and retainer pay subject to adjustment under section 1401a of title 10, United States Code;

(C) civil service retirement benefits under section 8340 of title 5, United States Code, foreign service retirement benefits under section 826 of the Foreign Service Act of 1980, Central Intelligence Agency retirement benefits under part J of the Central Intelligence Agency Retirement Act of 1964 for certain employees, and any other benefits under any similar provision under any retirement system for employees of the government of the United States;

(D) Federal workers' compensation under section 8146a of title 5, United States Code;

(E) benefits under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974; and

(F) benefits and expenditure limits under title XVIII or XIX of the Social Security Act.

SEC. 6103. MATCHING RATE REQUIREMENT FOR TITLE XX BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Section 2002(a)(1) of the Social Security Act (42 U.S.C. 1397a(a)(1)) is amended by striking ''Each State'' and all that follows through the period and inserting the following: ''(A) Each State shall be entitled to payment under this title for each fiscal year in an amount equal to the lesser of—

''(i) 80 percent of the total amount expended by the State during the fiscal year for services referred to in subparagraph (B); or

''(ii) the allotment of the State for the fiscal year.

''(B) A State to which a payment is made under this title shall use the payment for services directed at the goals set forth in section 2001, subject to the requirements of this title.''.

SEC. 6104. DENIAL OF UNEMPLOYMENT INSURANCE TO CERTAIN HIGH-INCOME INDIVIDUALS.

(a) GENERAL RULE.—Subsection (a) of section 3304 of the Internal Revenue Code of 1986, as amended by section 10101, is further amended by striking ''and'' at the end of paragraph (18), by redesignating paragraph (19) as paragraph (20), and by inserting after paragraph (18) the following new paragraph:

''(19) compensation shall not be payable to any individual for any benefit year if the taxable income of such individual for such individual's most recent taxable year ending before the beginning of such benefit year exceeded $120,000; and''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to benefit years beginning after December 31, 1995.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and December 31, 1995, the amendments made by this section shall apply to benefit years beginning after the day 30 calendar days after the first day on which such legislature is in session on or after December 31, 1995.

SEC. 6105. DENIAL OF UNEMPLOYMENT INSURANCE TO INDIVIDUALS WHO VOLUNTARILY LEAVE MILITARY SERVICE.

(a) GENERAL RULE.—Paragraph (1) of section 8521(a) of title 5, United States Code, is amended to read as follows:

''(1) 'Federal service' means active service (not including active duty in a reserve status unless for a continuous period of 45 days or more) in the armed forces or the commissioned corps of the National Oceanic and Atmospheric Administration if with respect to that service the individual—

''(A) was discharged or released under honorable conditions,

''(B) did not resign or voluntarily leave the service, and

''(C) was not discharged or released for cause as defined by the Secretary of Defense;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of a discharge or release after the date of the enactment of this Act.

TITLE VII—MEDICAID REFORM

Subtitle A—Per Capita Spending Limit

SEC. 7001. LIMITATION ON EXPENDITURES RECOGNIZED FOR PURPOSES OF FEDERAL FINANCIAL PARTICIPATION.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) in section 1903(a), by striking ''From'' and inserting ''Subject to section 1931, from'';

(2) by redesignating section 1931 as section 1932; and

(3) by inserting after section 1930 the following new section:

''LIMITATION ON FEDERAL FINANCIAL PARTICIPATION BASED ON PER BENEFICIARY SPENDING

''SEC. 1931. (a) IN GENERAL.—Subject to subsection (e), the total amount of State expenditures for medical assistance for which Federal financial participation may be made under section 1903(a) for quarters in a fiscal year (beginning with fiscal year 1997) may not exceed the sum of the following:

''(1) NONDISABLED MEDICAID CHILDREN.—The product of—

''(A) the number of full-year equivalent nondisabled medicaid children (described in subsection (b)(1)) in the State in the fiscal year, and

''(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

''(2) NONDISABLED MEDICAID ADULTS.—The product of—

''(A) the number of full-year equivalent nondisabled medicaid adults (described in subsection (b)(2)) in the State in the fiscal year, and

''(B) the per capita medical assistance limit established under subsection (c)(1) for such category individuals for the fiscal year.

''(3) NONDISABLED ELDERLY MEDICAID BENEFICIARIES.—The product of—

''(A) the number of full-year equivalent nondisabled elderly medicaid beneficiaries (described in subsection (b)(3)) in the State in the fiscal year, and

''(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

''(4) DISABLED MEDICAID BENEFICIARIES.—The product of—

''(A) the number of full-year equivalent disabled medicaid beneficiaries (described in subsection (b)(4)) in the State in the fiscal year, and

''(B) the per capita medical assistance limit established under subsection (c)(1) for such category individuals for the fiscal year.

''(5) ADMINISTRATIVE EXPENDITURES.—The product of—

''(A) the number of full-year equivalent medicaid beneficiaries who are in any category of beneficiaries in the State in the fiscal year, and

''(B) the per capita limit established under subsection (c)(1) for administrative expenditures for the fiscal year.

This section shall not apply to expenditures for which no Federal financial participation is available under this title.

''(b) DEFINITIONS RELATING TO CATEGORIES OF INDIVIDUALS.—In this section:

''(1) NONDISABLED MEDICAID CHILDREN.—The term 'nondisabled medicaid child' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is under 21 years of age.

''(2) NONDISABLED MEDICAID ADULTS.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 21 years of age but under 65 years of age.

''(3) NONDISABLED ELDERLY MEDICAID BENEFICIARY.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 65 years of age.

''(4) DISABLED MEDICAID BENEFICIARIES.—The term 'disabled medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title who is entitled to such assistance solely on the basis of blindness or disability.

For purposes of this section, nondisabled medicaid children, nondisabled medicaid adults, nondisabled elderly medicaid beneficiaries, and disabled medicaid beneficiaries each constitutes a separate category of medicaid beneficiaries.

''(c) ESTABLISHMENT OF PER CAPITA LIMITS.—

''(1) IN GENERAL.—The Secretary shall establish for each State a per capita medical assistance limit for each category of medicaid beneficiaries described in subsection (b) and for administrative expenditures for a fiscal year equal to the product of the following:

''(A) PREVIOUS EXPENDITURES.—The average of the amount of the per capita matchable medical assistance expenditures (determined under paragraph (2)(A)) for such category (or the per capita matchable adminstrative expenditures determined under paragraph (2)(B)) for such State for each of the 3 previous fiscal years.

''(B) INFLATION FACTOR.—The rolling 2-year CPI increase factor (determined under paragraph (3)(A)) for the fiscal year involved.

''(C) TRANSITIONAL ALLOWANCE.—The transitional allowance factor (if any) applicable under paragraph (3)(B) to such limit for the previous fiscal year and for the fiscal year involved.

''(2) PER CAPITA MATCHABLE MEDICAL ASSISTANCE EXPENDITURES.—For purposes of this section—

''(A) MEDICAL ASSISTANCE EXPENDITURES.—The 'per capita matchable medical assistance expenditures', for a category of medicaid beneficiaries for a State for a fiscal year, is equal to—

''(i) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under paragraphs (1) and (5) of section 1903(a) (other than expenditures excluded under subsection (e)) with respect to medical assistance furnished with respect to individuals in such category during the fiscal year, divided by

''(ii) the number of full-year equivalent individuals in such category in the State in such fiscal year.

''(B) PER CAPITA MATCHABLE ADMINISTRATIVE EXPENDITURES.—The 'per capita matchable administrative expenditures', for a State for a fiscal year, is equal to—

''(i) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under section 1903(a) (under paragraphs (1) and (5) of such section) during the fiscal year, divided by

''(ii) the number of full-year equivalent individuals in any category of medicaid beneficiary in the State in such fiscal year.

''(3) INCREASE FACTORS.—In this subsection—

''(A) ROLLING 2-YEAR CPI INCREASE FACTOR.—The 'rolling 2-year CPI increase factor' for a fiscal year is 1 plus the percentage by which—

''(i) the Secretary's estimate of the average value of the consumer price index for all urban consumers (all items, U.S. city average) for months in the particular fiscal year, exceeds

''(ii) the average value of such index for months in the 3 previous fiscal years.

''(B) TRANSITIONAL ALLOWANCE FACTORS.—

''(i) FISCAL YEAR 1996.—The 'transitional allowance factor' for fiscal year 1996—

''(I) for the category of nondisabled medicaid children, is 1.051;

''(II) for the category of nondisabled medicaid adults, is 1.067;

''(III) for the category of nondisabled elderly medicaid beneficiaries is 1.031;

''(IV) for the category of disabled medicaid beneficiaries is 1.015; and

''(V) for administrative expenditures is 1.046.

''(ii) SUBSEQUENT FISCAL YEARS FOR NONDISABLED CHILDREN AND ADULTS AND FOR DISABLED CATEGORIES.—The 'transitional allowance factor' for the categories of nondisabled medicaid children, nondisabled medicaid adults, and disabled medicaid beneficiaries—

''(I) for fiscal year 1997 is 1.01, and

''(II) for each subsequent fiscal year is 1.0.

''(iii) SUBSEQUENT FISCAL YEARS FOR THE ELDERLY AND ADMINISTRATIVE EXPENDITURES.—The 'transitional allowance factor' for the category of nondisabled elderly medicaid beneficiaries and for administrative expenditures for fiscal years after fiscal year 1996 is 1.0.

''(4) NOTICE.—The Secretary shall notify each State before the beginning of each fiscal year of the per capita limits established under this subsection for the State for the fiscal year.

''(d) SPECIAL RULES AND EXCEPTIONS.—For purposes of this section, expenditures attributable to any of the following shall not be subject to the limits established under this section and shall not be taken into account in establishing per capita medical assistance limits under subsection (c)(1):

''(1) DSH.—Payment adjustments under section 1923.

''(2) MEDICARE COST-SHARING.—Payments for medical assistance for medicare cost-sharing (as defined in section 1905(p)(3)).

''(3) SERVICES THROUGH IHS AND TRIBAL PROVIDERS.—Payments for medical assistance for services described in the last sentence of section 1905(b).

Nothing in this section shall be construed as applying any limitation to expenditures for the purchase and delivery of qualified pediatric vaccines under section 1928.

''(e) DEFINITIONS.—In this section, the term 'medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title.

''(f) ESTIMATIONS AND NOTICE.—

''(1) IN GENERAL.—The Secretary shall—

''(A) establish a process for estimating the limits established under subsection (a) for each State at the beginning of each fiscal year and adjusting such estimate during such year; and

''(B) notifying each State of the estimations and adjustments referred to in subparagraph (A).

''(2) DETERMINATION OF NUMBER OF FULL-YEAR EQUIVALENT INDIVIDUALS.—For purposes of this section, the number of full-year equivalent individuals in each category described in subsection (b) for a State for a year shall be determined based on actual reports submitted by the State to the Secretary. In the case of individuals who were not entitled to benefits under a State plan for the entire fiscal year (or are within a group of individuals for only part of a fiscal year), the number shall take into account only the portion of the year in which they were so entitled or within such group. The Secretary may audit such reports.

''(g) ANTI-GAMING ADJUSTMENT TO REFLECT CHANGES IN ELIGIBILITY.—

''(1) REPORT ON PER CAPITA EXPENDITURES.—If a State makes a change (on or after October 15, 1995) relating to eligibility for medical assistance in its State plan that results in the addition or deletion of individuals eligible for such assistance, the State shall submit to the Secretary with such change such information as the Secretary may require in order to carry out paragraph (2).

''(2) ADJUSTMENT FOR CERTAIN ADDITIONS.—If a State makes a change described in paragraph (1) that the Secretary believes will result in making medical assistance available for additional individuals (within a category described in subsection (b)) with respect to whom the Secretary estimates the per capita average medical assistance expenditures will be less the applicable per capita limit established under subsection (c)(1) for such category, the Secretary shall apply the per capita limits under such subsection separately with respect to individuals who are eligible for medical assistance without regard to such addition and with respect to the individuals so added.

''(3) ADJUSTMENT FOR CERTAIN DELETIONS.—If a State makes a change described in paragraph (1) that the Secretary believes will result in denial of medical assistance for individuals (within a category described in subsection (b)) with respect to whom the Secretary estimates the per capita average medical assistance expenditures is greater than the applicable per capita limit established under subsection (c)(1) for such catetory, the Secretary shall adjust the payment limits under subsection (a) to reflect any decrease in average per beneficiary expenditures that would result from such change.

''(h) TREATMENT OF STATES OPERATING UNDER WAIVERS.—The Secretary shall provide for such adjustments to the per capita limits under subsection (c) for a fiscal year as may be appropriate to take into account the case of States which either—

''(1) during any of the 3 previous fiscal years was providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is no longer providing such medical assistance under such waiver; or

''(2) during any of the 3 previous fiscal years was not providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is providing such medical assistance under such a waiver.''.

(b) ENFORCEMENT-RELATED PROVISIONS.—

(1) ASSURING ACTUAL PAYMENTS TO STATES CONSISTENT WITH LIMITATION.—Section 1903(d) of such Act (42 U.S.C. 1396b(d)) is amended—

(A) in paragraph (2)(A), by striking ''The Secretary'' and inserting ''Subject to paragraph (7), the Secretary'', and

(B) by adding at the end the following new paragraph:

''(7)(A) The Secretary shall take such steps as are necessary to assure that payments under this subsection for quarters in a fiscal year are consistent with the payment limits established under section 1931 for the fiscal year. Such steps may include limiting such payments for one or more quarters in a fiscal year based on—

''(i) an appropriate proportion of the payment limits for the fiscal year involved, and

''(ii) numbers of individuals within each category, as reported under subparagraph (B) for a recent previous quarter.

''(B) Each State shall include, in its report filed under paragraph (1)(A) for a calendar quarter—

''(i) the actual number of individuals within each category described in section 1931(b) for the second previous calendar quarter and (based on the data available) for the previous calendar quarter, and

''(ii) an estimate of such numbers for the calendar quarter involved.''.

(2) RESTRICTION ON AUTHORITY OF STATES TO APPLY LESS RESTRICTIVE INCOME AND RESOURCE METHODOLOGIES.—Section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following new subparagraph:

''(C) Subparagraph (A) shall not apply to plan amendments made on or after October 15, 1995.''.

(c) CONFORMING AMENDMENT.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking ''or'' at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting ''; or'', and

(3) by inserting after paragraph (15) the following:

''(16) in accordance with section 1931, with respect to amounts expended to the extent they exceed applicable limits established under section 1931(a).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1996.

Subtitle B—Medicaid Managed Care

SEC. 7101. PERMITTING GREATER FLEXIBILITY FOR STATES TO ENROLL BENEFICIARIES IN MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), as amended by section 7001(a), is amended—

(1) by redesignating section 1932 as section 1933; and

(2) by inserting after section 1931 the following new section:

''STATE OPTIONS FOR ENROLLMENT OF BENEFICIARIES IN MANAGED CARE ARRANGEMENTS

''SEC. 1932. (a) MANDATORY ENROLLMENT.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this section and notwithstanding paragraphs (1), (10)(B), and (23) of section 1902(a), a State may require an individual eligible for medical assistance under the State plan under this title to enroll with an eligible managed care provider as a condition of receiving such assistance and, with respect to assistance furnished by or under arrangements with such provider, to receive such assistance through the provider, if the following provisions are met:

''(A) The provider meets the requirements of section 1933.

''(B) The provider enters into a contract with the State to provide services for the benefit of individuals eligible for benefits under this title under which prepaid payments to such provider are made on an actuarially sound basis.

''(C) There is sufficient capacity among all providers meeting such requirements to enroll and serve the individuals required to enroll with such providers.

''(D) The individual is not a special needs individual (as defined in subsection (c)).

''(E) The State—

''(i) permits an individual to choose an eligible managed care provider—

''(I) from among not less than 2 medicaid managed care plans; or

''(II) between a medicaid managed care plan and a primary care case management provider;

''(ii) provides the individual with the opportunity to change enrollment among eligible managed care providers not less than once annually and notifies the individual of such opportunity not later than 60 days prior to the first date on which the individual may change enrollment;

''(iii) establishes a method for establishing enrollment priorities in the case of an eligible managed care provider that does not have sufficient capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the provider are given priority in continuing enrollment with the provider;

''(iv) establishes a default enrollment process which meets the requirements described in paragraph (2) and under which any such

individual who does not enroll with an eligible managed care provider during the enrollment period specified by the State shall be enrolled by the State with such a provider in accordance with such process; and

''(v) establishes the sanctions provided for in section 1934.

''(2) DEFAULT ENROLLMENT PROCESS REQUIREMENTS.—The default enrollment process established by a State under paragraph (1)(E)(iv) shall—

''(A) provide that the State may not enroll individuals with an eligible managed care provider which is not in compliance with the requirements of section 1933; and

''(B) provide for an equitable distribution of individuals among all eligible managed care providers available to enroll individuals through such default enrollment process, consistent with the enrollment capacities of such providers.

''(b) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—

''(1) IN GENERAL.—If an individual eligible for medical assistance under a State plan under this title and enrolled with an eligible managed care provider with a contract under subsection (a)(1)(B) ceases to be eligible for such assistance for a period of not greater than 2 months, the State may provide for the automatic reenrollment of the individual with the provider as of the first day of the month in which the individual is again eligible for such assistance.

''(2) CONDITIONS.—Paragraph (1) shall only apply if—

''(A) the month for which the individual is to be reenrolled occurs during the enrollment period covered by the individual's original enrollment with the eligible managed care provider;

''(B) the eligible managed care provider continues to have a contract with the State agency under subsection (a)(1)(B) as of the first day of such month; and

''(C) the eligible managed care provider complies with the requirements of section 1933.

''(3) NOTICE OF REENROLLMENT.—The State shall provide timely notice to an eligible managed care provider of any reenrollment of an individual under this subsection.

''(c) SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In this section, a 'special needs individual' means any of the following:

''(1) SPECIAL NEEDS CHILD.—An individual who is under 19 years of age who—

''(A) is eligible for supplemental security income under title XVI;

''(B) is described under section 501(a)(1)(D);

''(C) is a child described in section 1902(e)(3); or

''(D) is in foster care or is otherwise in an out-of-home placement.

''(2) HOMELESS INDIVIDUALS.—An individual who is homeless (without regard to whether the individual is a member of a family), including—

''(A) an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations; or

''(B) an individual who is a resident in transitional housing.

''(3) MIGRANT AGRICULTURAL WORKERS.—A migratory agricultural worker or a seasonal agricultural worker (as such terms are defined in section 329 of the Public Health Service Act), or the spouse or dependent of such a worker.

''(4) INDIANS.—An Indian (as defined in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1603(c))).''.

(b) CONFORMING AMENDMENT.—Section 1902(a)(23) of such Act (42 U.S.C. 1396a(a)(23)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''subsection (g) and in section 1915'' and inserting ''subsection (g), section 1915, and section 1931,''; and

(2) in subparagraph (B)—

(A) by striking ''a health maintenance organization, or a'' and inserting ''or with an eligible managed care provider, as defined in section 1933(g)(1), or''.

SEC. 7102. REMOVAL OF BARRIERS TO PROVISION OF MEDICAID SERVICES THROUGH MANAGED CARE.

(a) REPEAL OF CURRENT BARRIERS.—Except as provided in subsection (b), section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is repealed on the date of the enactment of this Act.

(b) EXISTING CONTRACTS.—In the case of any contract under section 1903(m) of such Act which is in effect on the day before the date of the enactment of this Act, the provisions of such section shall apply to such contract until the earlier of—

(1) the day after the date of the expiration of the contract; or

(2) the date which is 1 year after the date of the enactment of this Act.

(c) ELIGIBLE MANAGED CARE PROVIDERS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as amended by sections 7001(a) and 7101(a), is amended—

(1) by redesignating section 1933 as section 1934; and

(2) by inserting after section 1932 the following new section:

''ELIGIBLE MANAGED CARE PROVIDERS

''SEC. 1933. (a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) ELIGIBLE MANAGED CARE PROVIDER.—The term 'eligible managed care provider' means—

''(A) a medicaid managed care plan; or

''(B) a primary care case management provider.

''(2) MEDICAID MANAGED CARE PLAN.—The term 'medicaid managed care plan' means a health maintenance organization, an eligible organization with a contract under Section 1876, a provider sponsored network or any other plan which provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B).

''(3) PRIMARY CARE CASE MANAGEMENT PROVIDER.—

''(A) IN GENERAL.—The term 'primary care case management provider' means a health care provider that—

''(i) is a physician, group of physicians, a Federally-qualified health center, a rural health clinic, or an entity employing or having other arrangements with physicians that provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B);

''(ii) receives payment on a fee-for-service basis (or, in the case of a Federally-qualified health center or a rural health clinic, on a reasonable cost per encounter basis) for the provision of health care items and services specified in such contract to enrolled individuals;

''(iii) receives an additional fixed fee per enrollee for a period specified in such contract for providing case management services (including approving and arranging for the provision of health care items and services specified in such contract on a referral basis) to enrolled individuals; and

''(iv) is not an entity that is at risk.

''(B) AT RISK.—In subparagraph (A)(iv), the term 'at risk' means an entity that—

''(i) has a contract with the State under which such entity is paid a fixed amount for providing or arranging for the provision of health care items or services specified in such contract to an individual eligible for medical assistance under the State plan and enrolled with such entity, regardless of whether such items or services are furnished to such individual; and

''(ii) is liable for all or part of the cost of furnishing such items or services, regardless of whether such cost exceeds such fixed payment.

''(b) ENROLLMENT.—

''(1) NONDISCRIMINATION.—An eligible managed care provider may not discriminate on the basis of health status or anticipated need for services in the enrollment, reenrollment, or disenrollmentof individuals eligible to receive medical assistance under a State plan under this title or by discouraging enrollment (except as permitted by this section) by eligible individuals.

''(2) TERMINATION OF ENROLLMENT.—

''(A) IN GENERAL.—An eligible managed care provider shall permit an individual eligible for medical assistance under the State plan under this title who is enrolled with the provider to terminate such enrollment for cause at any time, and without cause during the 60-day period beginning on the date the individual receives notice of enrollment, and shall notify each such individual of the opportunity to terminate enrollment under these conditions.

''(B) FRAUDULENT INDUCEMENT OR COERCION AS GROUNDS FOR CAUSE.—For purposes of subparagraph (A), an individual terminating enrollment with an eligible managed care provider on the grounds that the enrollment was based on fraudulent inducement or was obtained through coercion shall be considered to terminate such enrollment for cause.

''(C) NOTICE OF TERMINATION.—

''(i) NOTICE TO STATE.—

''(I) BY INDIVIDUALS.—Each individual terminating enrollment with an eligible managed care provider under subparagraph (A) shall do so by providing notice of the termination to an office of the State agency administering the State plan under this title, the State or local welfare agency, or an office of an eligible managed care provider.

''(II) BY PLANS.—Any eligible managed care provider which receives notice of an individual's termination of enrollment with such provider through receipt of such notice at an office of an eligible managed care provider shall provide timely notice of the termination to the State agency administering the State plan under this title.

''(ii) NOTICE TO PLAN.—The State agency administering the State plan under this title or the State or local welfare agency which receives notice of an individual's termination of enrollment with an eligible managed care provider under clause (i) shall provide timely notice of the termination to such provider.

''(D) REENROLLMENT.—Each State shall establish a process under which an individual terminating enrollment under this paragraph shall be promptly enrolled with another eligible managed care provider and notified of such enrollment.

''(3) PROVISION OF ENROLLMENT MATERIALS IN UNDERSTANDABLE FORM.—Each eligible managed care provider shall provide all enrollment materials in a manner and form which may be easily understood by a typical adult enrollee of the provider who is eligible for medical assistance under the State plan under this title.

''(c) QUALITY ASSURANCE.—

''(1) ACCESS TO SERVICES.—Each eligible managed care provider shall provide or arrange for the provision of all medically necessary medical assistance under this title which is specified in the contract entered into between such provider and the State

under section 1932(a)(1)(B) for enrollees who are eligible for medical assistance under the State plan under this title.

''(2) TIMELY DELIVERY OF SERVICES.—Each eligible managed care provider shall respond to requests from enrollees for the delivery of medical assistance in a manner which—

''(A) makes such assistance—

''(i) available and accessible to each such individual, within the area served by the provider, with reasonable promptness and in a manner which assures continuity; and

''(ii) when medically necessary, available and accessible 24 hours a day and 7 days a week; and

''(B) with respect to assistance provided to such an individual other than through the provider, or without prior authorization, in the case of a primary care case management provider, provides for reimbursement to the individual (if applicable under the contract between the State and the provider) if—

''(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition; and

''(ii) it was not reasonable given the circumstances to obtain the services through the provider, or, in the case of a primary care case management provider, with prior authorization.

''(3) EXTERNAL INDEPENDENT REVIEW OF ELIGIBLE MANAGED CARE PROVIDER ACTIVITIES.—

''(A) REVIEW OF MEDICAID MANAGED CARE PLAN CONTRACT.—

''(i) IN GENERAL.—Except as provided in subparagraph (B), each medicaid managed care plan shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in such plan's contract with the State under section 1932(a)(1)(B). Such review shall specifically evaluate the extent to which the medicaid managed care plan provides such services in a timely manner.

''(ii) CONTENTS OF REVIEW.—An external independent review conducted under this paragraph shall include the following:

''(I) a review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment,

''(II) a review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care,

''(III) notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization), and

''(IV) other activities as prescribed by the Secretary or the State.

''(iii) AVAILABILITY OF RESULTS.—The results of each external independent review conducted under this subparagraph shall be available to participating health care providers, enrollees, and potential enrollees of the medicaid managed care plan, except that the results may not be made available in a manner that discloses the identity of any individual patient.

''(B) DEEMED COMPLIANCE.—

''(i) MEDICARE PLANS.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if the plan is an eligible organization with a contract in effect under section 1876.

''(ii) PRIVATE ACCREDITATION.—

''(I) IN GENERAL.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if—

''(aa) the plan is accredited by an organization meeting the requirements described in clause (iii); and

''(bb) the standards and process under which the plan is accredited meet such requirements as are established under subclause (II), without regard to whether or not the time requirement of such subclause is satisfied.

''(II) STANDARDS AND PROCESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall specify requirements for the standards and process under which a medicaid managed care plan is accredited by an organization meeting the requirements of clause (iii).

''(iii) ACCREDITING ORGANIZATION.—An accrediting organization meets the requirements of this clause if the organization—

''(I) is a private, nonprofit organization;

''(II) exists for the primary purpose of accrediting managed care plans or health care providers; and

''(III) is independent of health care providers or associations of health care providers.

''(C) REVIEW OF PRIMARY CARE CASE MANAGEMENT PROVIDER CONTRACT.—Each primary care case management provider shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in the contract entered into between the State and the primary care case management provider under section 1932(a)(1)(B).

''(4) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to paragraph (3) and shall monitor the effectiveness of the State's monitoring and followup activities required under subparagraph (A) of paragraph (2). If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of paragraph (2) are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

''(5) PROVIDING INFORMATION ON SERVICES.—

''(A) REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

''(i) INFORMATION TO THE STATE.—Each medicaid managed care plan shall provide to the State (at such frequency as the Secretary may require), complete and timely information concerning the following:

''(I) The services that the plan provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title.

''(II) The identity, locations, qualifications, and availability of participating health care providers.

''(III) The rights and responsibilities of enrollees.

''(IV) The services provided by the plan which are subject to prior authorization by the plan as a condition of coverage (in accordance with paragraph (6)(A)).

''(V) The procedures available to an enrollee and a health care provider to appeal the failure of the plan to cover a service.

''(VI) The performance of the plan in serving individuals eligible for medical assistance under the State plan under this title.

''(ii) INFORMATION TO HEALTH CARE PROVIDERS, ENROLLEES, AND POTENTIAL ENROLLEES.—Each medicaid managed care plan shall—

''(I) upon request, make the information described in clause (i) available to participating health care providers, enrollees, and potential enrollees in the plan's service area; and

''(II) provide to enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the plan that are covered either directly or through a method of referral and prior authorization.

''(B) REQUIREMENTS FOR PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each primary care case management provider shall—

''(i) provide to the State (at such frequency as the Secretary may require), complete and timely information concerning the services that the primary care case management provider provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title;

''(ii) make available to enrollees and potential enrollees information concerning services available to the enrollee for which prior authorization by the primary care case management provider is required; and

''(iii) provide enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the primary care case management provider that are covered either directly or through a method of referral and prior authorization.

''(iv) provide assurances that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance.

''(C) REQUIREMENTS FOR BOTH MEDICAID MANAGED CARE PLANS AND PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each eligible managed care provider shall provide the State with aggregate encounter data for early and periodic screening, diagnostic, and treatment services under section 1905(r) furnished to individuals under 21 years of age. Any such data provided may be audited by the State and the Secretary.

''(6) TIMELINESS OF PAYMENT.—An eligible managed care provider shall make payment to health care providers for items and services which are subject to the contract under section 1931(a)(1)(B) and which are furnished to individuals eligible for medical assistance under the State plan under this title who are enrolled with the provider on a timely basis and under the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the eligible managed care provider agree to an alternate payment schedule.

''(7) ADDITIONAL QUALITY ASSURANCE REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

''(A) CONDITIONS FOR PRIOR AUTHORIZATION.—A medicaid managed care plan may require the approval of medical assistance for nonemergency services before the assistance is furnished to an enrollee only if the system providing for such approval—

''(i) provides that such decisions are made in a timely manner, depending upon the urgency of the situation; and

''(ii) permits coverage of medically necessary medical assistance provided to an enrollee without prior authorization in the event of an emergency.

''(B) INTERNAL GRIEVANCE PROCEDURE.—Each medicaid managed care plan shall establish an internal grievance procedure under which a plan enrollee or a provider on behalf of such an enrollee who is eligible for medical assistance under the State plan under this title may challenge the denial of coverage of or payment for such assistance.

''(C) USE OF UNIQUE PHYSICIAN IDENTIFIER FOR PARTICIPATING PHYSICIANS.—Each medicaid managed care plan shall require each physician providing services to enrollees eligible for medical assistance under the State plan under this title to have a unique identifier in accordance with the system established under section 1902(x).

''(D) PATIENT ENCOUNTER DATA.—

''(i) IN GENERAL.—Each medicaid managed care plan shall maintain sufficient patient

encounter data to identify the health care provider who delivers services to patients and to otherwise enable the State plan to meet the requirements of section 1902(a)(27). The plan shall incorporate such information in the maintenance of patient encounter data with respect to such health care provider.

''(ii) COMPLIANCE.—A medicaid managed care plan shall—

''(I) submit the data maintained under clause (i) to the State; or

''(II) demonstrate to the State that the data complies with managed care quality assurance guidelines established by the Secretary in accordance with clause (iii).

''(iii) STANDARDS.—In establishing managed care quality assurance guidelines under clause (ii)(II), the Secretary shall consider—

''(I) managed care industry standards for—

''(aa) internal quality assurance; and

''(bb) performance measures; and

''(II) any managed care quality standards established by the National Association of Insurance Commissioners.

(E) PAYMENTS TO HOSPITALS.—A medicaid managed care plan shall—

''(i) provide the State with assurances that payments for hospital services are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide such services to individuals enrolled with the plan under this title in conformity with applicable State and Federal laws, regulations, and quality and safety standards;

''(ii) report to the State at least annually—

''(I) the rates paid to hospitals by the plan for items and services furnished to such individuals,

''(II) an explanation of the methodology used to compute such rates, and

''(III) a comparison of such rates with the rates used by the State to pay for hospital services furnished to individuals who are eligible for benefits under the program established by the State under this title but are not enrolled in a medicaid managed care plan; and

''(iii) if the rates paid by the plan are lower than the rates paid by the State (as described in clause (ii)(III)), an explanation of why the rates paid by the plan nonetheless meet the standard described in clause (i).

''(d) DUE PROCESS REQUIREMENTS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

''(1) DENIAL OF OR UNREASONABLE DELAY IN DETERMINING COVERAGE AS GROUNDS FOR HEARING.—If an eligible managed care provider—

''(A) denies coverage of or payment for medical assistance with respect to an enrollee who is eligible for such assistance under the State plan under this title; or

''(B) fails to make any eligibility or coverage determination sought by an enrollee or, in the case of a medicaid managed care plan, by a participating health care provider or enrollee, in a timely manner, depending upon the urgency of the situation, the enrollee or the health care provider furnishing such assistance to the enrollee (as applicable) may obtain a hearing before the State agency administering the State plan under this title in accordance with section 1902(a)(3), but only, with respect to a medicaid managed care plan, after completion of the internal grievance procedure established by the plan under subsection (c)(6)(B).

''(2) COMPLETION OF INTERNAL GRIEVANCE PROCEDURE.—Nothing in this subsection shall require completion of an internal grievance procedure if such procedure does not exist or if the procedure does not provide for timely review of health needs considered by the enrollee's health care provider to be of an urgent nature.

''(e) MISCELLANEOUS.—

''(1) PROTECTING ENROLLEES AGAINST THE INSOLVENCY OF ELIGIBLE MANAGED CARE PROVIDERS AND AGAINST THE FAILURE OF THE STATE TO PAY SUCH PROVIDERS.—Each eligible managed care provider shall provide that an individual eligible for medical assistance under the State plan under this title who is enrolled with the provider may not be held liable—

''(A) for the debts of the eligible managed care provider, in the event of the provider's insolvency;

''(B) for services provided to the individual—

''(i) in the event of the provider failing to receive payment from the State for such services; or

''(ii) in the event of a health care provider with a contractual or other arrangement with the eligible managed care provider failing to receive payment from the State or the eligible managed care provider for such services; or

''(C) for the debts of any health care provider with a contractual or other arrangement with the provider to provide services to the individual, in the event of the insolvency of the health care provider.

''(2) TREATMENT OF CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

''(A) IN GENERAL.—In the case of an enrollee of an eligible managed care provider who is a child with special health care needs—

''(i) if any medical assistance specified in the contract with the State is identified in a treatment plan prepared for the enrollee by a program described in subparagraph (C), the eligible managed care provider shall provide (or arrange to be provided) such assistance in accordance with the treatment plan either—

''(I) by referring the enrollee to a pediatric health care provider who is trained and experienced in the provision of such assistance and who has a contract with the eligible managed care provider to provide such assistance; or

''(II) if appropriate services are not available through the eligible managed care provider, permitting such enrollee to seek appropriate specialty services from pediatric health care providers outside of or apart from the eligible managed care provider; and

''(ii) the eligible managed care provider shall require each health care provider with whom the eligible managed care provider has entered into an agreement to provide medical assistance to enrollees to furnish the medical assistance specified in such enrollee's treatment plan to the extent the health care provider is able to carry out such treatment plan.

''(B) PRIOR AUTHORIZATION.—An enrollee referred for treatment under subparagraph (A)(i)(I), or permitted to seek treatment outside of or apart from the eligible managed care provider under subparagraph (A)(i)(II) shall be deemed to have obtained any prior authorization required by the provider.

''(C) CHILD WITH SPECIAL HEALTH CARE NEEDS.—For purposes of subparagraph (A), a child with special health care needs is a child who is receiving services under—

''(i) a program administered under part B or part H of the Individuals with Disabilities Education Act;

''(ii) a program for children with special health care needs under title V;

''(iii) a program under part B or part D of title IV; or

''(iv) any other program for children with special health care needs identified by the Secretary.

''(3) PHYSICIAN INCENTIVE PLANS.—Each medicaid managed care plan shall require that any physician incentive plan covering physicians who are participating in the medicaid managed care plan shall meet the requirements of section 1876(i)(8).

''(4) INCENTIVES FOR HIGH QUALITY ELIGIBLE MANAGED CARE PROVIDERS.—The Secretary and the State may establish a program to reward, through public recognition, incentive payments, or enrollment of additional individuals (or combinations of such rewards), eligible managed care providers that provide the highest quality care to individuals eligible for medical assistance under the State plan under this title who are enrolled with such providers. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.''.

(d) CLARIFICATION OF APPLICATION OF FFP DENIAL RULES TO PAYMENTS MADE PURSUANT TO MEDICAID MANAGED CARE PLANS.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by adding at the end the following sentence: ''Paragraphs (1)(A), (1)(B), (2), (5), and (12) shall apply with respect to items or services furnished and amounts expended by or through an eligible managed care provider (as defined in section 1933(a)(1)) in the same manner as such paragraphs apply to items or services furnished and amounts expended directly by the State.''.

(e) CLARIFICATION OF CERTIFICATION REQUIREMENTS FOR PHYSICIANS PROVIDING SERVICES TO CHILDREN AND PREGNANT WOMEN.—Section 1903(i)(12) of such Act (42 U.S.C. 1396b(i)(12)) is amended—

(1) in subparagraph (A)(i), to read as follows:

''(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics or is certified in general practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association,'';

(2) in subparagraph (B)(i), to read as follows:

''(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics or is certified in family practice or obstetrics by the medical specialty board recognized by the American Osteopathic Association,''; and

(3) in both subparagraphs (A) and (B)—

(A) by striking ''or'' at the end of clause (v);

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following new clause:

''(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or''.

SEC. 7103. ADDITIONAL REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.

Section 1933 of the Social Security Act, as added by section 7102(c)(2), is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

''(d) ADDITIONAL REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

''(1) DEMONSTRATION OF ADEQUATE CAPACITY AND SERVICES.—

''(A) IN GENERAL.—Subject to subparagraph (C), each medicaid managed care plan shall provide the State and the Secretary with adequate assurances (as determined by the Secretary) that the plan, with respect to a service area—

''(i) has the capacity to serve the expected enrollment in such service area;

''(ii) offers an appropriate range of services for the population expected to be enrolled in

such service area, including transportation services and translation services consisting of the principal languages spoken in the service area;

''(iii) maintains sufficient numbers of providers of services included in the contract with the State to ensure that services are available to individuals receiving medical assistance and enrolled in the plan to the same extent that such services are available to individuals enrolled in the plan who are not recipients of medical assistance under the State plan under this title;

''(iv) maintains extended hours of operation with respect to primary care services that are beyond those maintained during a normal business day;

''(v) provides preventive and primary care services in locations that are readily accessible to members of the community; and

''(vi) provides information concerning educational, social, health, and nutritional services offered by other programs for which enrollees may be eligible.

''(vii) complies with such other requirements relating to access to care as the Secretary or the State may impose.

''(B) PROOF OF ADEQUATE PRIMARY CARE CAPACITY AND SERVICES.—Subject to subparagraph (C), a medicaid managed care plan that contracts with a reasonable number of primary care providers (as determined by the Secretary) and whose primary care membership includes a reasonable number (as so determined) of the following providers will be deemed to have satisfied the requirements of subparagraph (A):

''(i) Rural health clinics, as defined in section 1905(l)(1).

''(ii) Federally-qualified health centers, as defined in section 1905(l)(2)(B).

''(iii) Clinics which are eligible to receive payment for services provided under title X of the Public Health Service Act.

''(C) SUFFICIENT PROVIDERS OF SPECIALIZED SERVICES.—Notwithstanding subparagraphs (A) and (B), a medicaid managed care plan may not be considered to have satisfied the requirements of subparagraph (A) if the plan does not have a sufficient number (as determined by the Secretary) of providers of specialized services, including perinatal and pediatric specialty care, to ensure that such services are available and accessible.

''(2) WRITTEN PROVIDER PARTICIPATION AGREEMENTS FOR CERTAIN PROVIDERS.—Each medicaid managed care plan that enters into a written provider participation agreement with a provider described in paragraph (1)(B) shall—

''(A) include terms and conditions that are no more restrictive than the terms and conditions that the medicaid managed care plan includes in its agreements with other participating providers with respect to—

''(i) the scope of covered services for which payment is made to the provider;

''(ii) the assignment of enrollees by the plan to the provider;

''(iii) the limitation on financial risk or availability of financial incentives to the provider;

''(iv) accessibility of care;

''(v) professional credentialing and recredentialing;

''(vi) licensure;

''(vii) quality and utilization management;

''(viii) confidentiality of patient records;

''(ix) grievance procedures; and

''(x) indemnification arrangements between the plans and providers; and

''(B) provide for payment to the provider on a basis that is comparable to the basis on which other providers are paid.''.

SEC. 7104. PREVENTING FRAUD IN MEDICAID MANAGED CARE.

(a) IN GENERAL.—Section 1933 of the Social Security Act, as added by section 7102(c)(2) and amended by section 7103, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f) ANTI-FRAUD PROVISIONS.—

''(1) PROVISIONS APPLICABLE TO ELIGIBLE MANAGED CARE PROVIDERS.—

''(A) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

''(i) IN GENERAL.—An eligible managed care provider may not knowingly—

''(I) have a person described in clause (iii) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the plan's equity; or

''(II) have an employment, consulting, or other agreement with a person described in clause (iii) for the provision of items and services that are significant and material to the organization's obligations under its contract with the State.

''(ii) EFFECT OF NONCOMPLIANCE.—If a State finds that an eligible managed care provider is not in compliance with subclause (I) or (II) of clause (i), the State—

''(I) shall notify the Secretary of such noncompliance;

''(II) may continue an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

''(III) may not renew or otherwise extend the duration of an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to the Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

''(iii) PERSONS DESCRIBED.—A person is described in this clause if such person—

''(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting;

''(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in clause (i); or

''(III) is excluded from participation in any program under title XVIII or any State health care program, as defined in section 1128(h).

''(B) RESTRICTIONS ON MARKETING.—

''(i) DISTRIBUTION OF MATERIALS.—

''(I) IN GENERAL.—An eligible managed care provider may not distribute marketing materials within any State—

''(aa) without the prior approval of the State; and

''(bb) that contain false or materially misleading information.

''(II) PROHIBITION.—The State may not enter into or renew a contract with an eligible managed care provider for the provision of services to individuals enrolled under the State plan under this title if the State determines that the provider intentionally distributed false or materially misleading information in violation of subclause (I)(bb).

''(ii) SERVICE MARKET.—An eligible managed care provider shall distribute marketing materials to the entire service area of such provider.

''(iii) PROHIBITION OF TIE-INS.—An eligible managed care provider, or any agency of such provider, may not seek to influence an individual's enrollment with the provider in conjunction with the sale of any other insurance.

''(iv) PROHIBITING MARKETING FRAUD.—Each eligible managed care provider shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the provider, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll.

''(2) PROVISIONS APPLICABLE ONLY TO MEDICAID MANAGED CARE PLANS.—

''(A) STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—A medicaid managed care plan may not enter into a contract with any State under section 1932(a)(1)(B) unless the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibilities relating to contracts with such plans or to the default enrollment process described in section 1932(a)(1)(D)(iv) that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.

''(B) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—In addition to any requirements applicable under section 1902(a)(27) or 1902(a)(35), a medicaid managed care plan shall—

''(i) report to the State (and to the Secretary upon the Secretary's request) such financial information as the State or the Secretary may require to demonstrate that—

''(I) the plan has the ability to bear the risk of potential financial losses and otherwise has a fiscally sound operation;

''(II) the plan uses the funds paid to it by the State and the Secretary for activities consistent with the requirements of this title and the contract between the State and plan; and

''(III) the plan does not place an individual physician, physician group, or other health care provider at substantial risk (as determined by the Secretary) for services not provided by such physician, group, or health care provider, by providing adequate protection (as determined by the Secretary) to limit the liability of such physician, group, or health care provider, through measures such as stop loss insurance or appropriate risk corridors;

''(ii) agree that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the plan (and of any subcontractor) relating to the information reported pursuant to clause (i) and any information required to be furnished under section paragraphs (27) or (35) of section 1902(a);

''(iii) make available to the Secretary and the State a description of each transaction described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act between the plan and a party in interest (as defined in section 1318(b) of such Act); and

''(iv) agree to make available to its enrollees upon reasonable request—

''(I) the information reported pursuant to clause (i); and

''(II) the information required to be disclosed under sections 1124 and 1126.

''(C) ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

''(i) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, including appropriate equity standards, under which each medicaid managed care plan shall make adequate provision against the risk of insolvency.

''(ii) CONSIDERATION OF OTHER STANDARDS.—In establishing the standards described in

clause (i), the Secretary shall consider - solvency standards applicable to eligible organizations with a risk-sharing contract under section 1876.

(iii) MODEL CONTRACT ON SOLVENCY.—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines and regulations shall take into account characteristics that may differ among risk contracting entities including whether such an entity is at risk for inpatient hospital services.

''(D) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—Each medicaid managed care plan shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

''(i) the most recent audited financial statement of the plan's net earnings, in accordance with guidelines established by the Secretary in consultation with the States, and consistent with generally accepted accounting principles; and

''(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the plan and entitled to medical assistance under the State plan under this title.''.

SEC. 7105. ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS.

Title XIX of the Social Security Act, as amended by sections 7001, 7101(a), and 7102(c), is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1933 the following new section:

''ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS

''SEC. 1934. As a condition of approval of a State plan under this title, a State shall—

''(1) find, determine, and make assurances satisfactory to the Secretary that—

''(A) the rates it pays medicaid managed care plans for individuals eligible under the State plan are reasonable and adequate to assure access to services meeting professionally recognized quality standards, taking into account—

''(i) the items and services to which the rate applies,

''(ii) the eligible population, and

''(iii) the rate the State pays providers for suchitems and services; and

''(B) the methodology used to adjust the rate adequately reflects the varying risks associated with individuals actually enrolling in each medicaid managed care plan; and

''(2) report to the Secretary, at least annually, on—

''(A) the rates the States pays to medicaid managed care plans, and

''(B) the rates medicaid managed care plans pay for hospital services (and such other information as medicaid managed care plans are required to submit to the State pursuant to section 1933(c)(5)(E).''.

SEC. 7106. SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS.

(a) SANCTIONS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as previously amended, is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1934 the following new section:

''SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS

''SEC. 1935. (a) USE OF INTERMEDIATE SANCTIONS BY THE STATE TO ENFORCE REQUIREMENTS.—Each State shall establish intermediate sanctions, which may include any of the types described in subsection (b) other than the termination of a contract with an eligible managed care provider, which the State may impose against an eligible managed care provider with a contract under section 1932(a)(1)(B) if the provider—

''(1) fails substantially to provide medically necessary items and services that are required (under law or under such provider's contract with the State) to be provided to an enrollee covered under the contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) the enrollee;

''(2) imposes premiums on enrollees in excess of the premiums permitted under this title;

''(3) acts to discriminate among enrollees on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, except as permitted by sections 1932 and 1933, or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment with the provider by eligible individuals whose medical condition or history indicates a need for substantial future medical services;

''(4) misrepresents or falsifies information that is furnished

''(A) to the Secretary or the State under section 1932 or 1933; or

''(B) to an enrollee, potential enrollee, or a health care provider under such sections; or

''(5) fails to comply with the requirements of section 1876(i)(8).

''(b) INTERMEDIATE SANCTIONS.—The sanctions described in this subsection are as follows:

''(1) Civil money penalties as follows:

''(A) Except as provided in subparagraph (B), (C), or (D), not more than $25,000 for each determination under subsection (a).

''(B) With respect to a determination under paragraph (3) or (4)(A) of subsection (a), not more than $100,000 for each such determination.

''(C) With respect to a determination under subsection (a)(2), double the excess amount charged in violation of such subsection (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned).

''(D) Subject to subparagraph (B), with respect to a determination under subsection (a)(3), $15,000 for each individual not enrolled as a result of a practice described in such subsection.

''(2) The appointment of temporary management to oversee the operation of the eligible managed care provider and to assure the health of the provider's enrollees, if there is a need for temporary management while—

''(A) there is an orderly termination or reorganization of the eligible managed care provider; or

''(B) improvements are made to remedy the violations found under subsection (a), except that temporary management under this paragraph may not be terminated until the State has determined that the eligible managed care provider has the capability to ensure that the violations shall not recur.

''(3) Permitting individuals enrolled with the eligible managed care provider to terminate enrollment without cause, and notifying such individuals of such right to terminate enrollment.

''(c) TREATMENT OF CHRONIC SUBSTANDARD PROVIDERS.—In the case of an eligible managed care provider which has repeatedly failed to meet the requirements of section 1932 or 1933, the State shall (regardless of what other sanctions are provided) impose the sanctions described in paragraphs (2) and (3) of subsection (b).

''(d) AUTHORITY TO TERMINATE CONTRACT.—In the case of an eligible managed care provider which has failed to meet the requirements of section 1932 or 1933, the State shall have the authority to terminate its contract with such provider under section 1932(a)(1)(B) and to enroll such provider's enrollees with other eligible managed care providers (or to permit such enrollees to receive medical assistance under the State plan under this title other than through an eligible managed care provider).

''(e) AVAILABILITY OF SANCTIONS TO THE SECRETARY.—

''(1) INTERMEDIATE SANCTIONS.—In addition to the sanctions described in paragraph (2) and any other sanctions available under law, the Secretary may provide for any of the sanctions described in subsection (b) if the Secretary determines that—

''(A) an eligible managed care provider with a contract under section 1932(a)(1)(B) fails to meet any of the requirements of section 1932 or 1933; and

''(B) the State has failed to act appropriately to address such failure.

''(2) DENIAL OF PAYMENTS TO THE STATE.—The Secretary may deny payments to the State for medical assistance furnished under the contract under section 1932(a)(1)(B) for individuals enrolled after the date the Secretary notifies an eligible managed care provider of a determination under subsection (a) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(f) DUE PROCESS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

''(1) AVAILABILITY OF HEARING PRIOR TO TERMINATION OF CONTRACT.—A State may not terminate a contract with an eligible managed care provider under section 1932(a)(1)(B) unless the provider is provided with a hearing prior to the termination.

''(2) NOTICE TO ENROLLEES OF TERMINATION HEARING.—A State shall notify all individuals enrolled with an eligible managed care provider which is the subject of a hearing to terminate the provider's contract with the State of the hearing and that the enrollees may immediately disenroll with the provider for cause.

''(3) OTHER PROTECTIONS FOR ELIGIBLE MANAGED CARE PROVIDERS AGAINST SANCTIONS IMPOSED BY STATE.—Before imposing any sanction against an eligible managed care provider other than termination of the provider's contract, the State shall provide the provider with notice and such other due process protections as the State may provide, except that a State may not provide an eligible managed care provider with a pretermination hearing before imposing the sanction described in subsection (b)(2).

''(4) IMPOSITION OF CIVIL MONETARY PENALTIES BY SECRETARY.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply with respect to a civil money penalty imposed by the Secretary under subsection (b)(1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A.''.

(b) CONFORMING AMENDMENT RELATING TO TERMINATION OF ENROLLMENT FOR CAUSE.—Section 1933(b)(2)(B) of the Social Security Act, as added by this part, is amended by inserting after ''coercion'' the following: '', or pursuant to the imposition against the eligible managed care provider of the sanction described in section 1935(b)(3),''.

SEC. 7107. REPORT ON PUBLIC HEALTH SERVICES.

(a) IN GENERAL.—Not later than January 1, 1994, the Secretary of Health and Human Services (in this subtitle referred to as the ''Secretary'') shall report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on the effect of risk contracting entities (as defined in section 1932(a)(3) of the Social Security Act) and primary care case management entities (as defined in section 1932(a)(1) of such Act) on the delivery of and payment for the services listed in subsection (f)(2)(C)(ii) of section 1932 of such Act.

(b) CONTENTS OF REPORT.—The report referred to in subsection (a) shall include—

(1) information on the extent to which enrollees with risk contracting entities and primary care case management programs seek services at local health departments, public hospitals, and other facilities that provide care without regard to a patient's ability to pay;

(2) information on the extent to which the facilities described in paragraph (1) provide services to enrollees with risk contracting entities and primary care case management programs without receiving payment;

(3) information on the effectiveness of systems implemented by facilities described in paragraph (1) for educating such enrollees on services that are available through the risk contracting entities or primary care case management programs with which such enrollees are enrolled;

(4) to the extent possible, identification of the types of services most frequently sought by such enrollees at such facilities; and

(5) recommendations about how to ensure the timely delivery of the services listed in subsection (f)(2)(C)(ii) of section 1931 of the Social Security Act to enrollees of risk contracting entities and primary care case management entities and how to ensure that local health departments, public hospitals, and other facilities are adequately compensated for the provision of such services to such enrollees.

SEC. 7108. REPORT ON PAYMENTS TO HOSPITALS.

(a) IN GENERAL.—Not later than October 1 of each year, beginning with October 1, 1996, the Secretary and the Comptroller General shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on rates paid for hospital services under coordinated care programs described in section 1932 of the Social Security Act.S0634

(b) CONTENTS OF REPORT.—The information in the report described in subsection (a) shall—

(1) be organized by State, type of hospital, type of service, and

(2) include a comparison of rates paid for hospital services under coordinated care programs with rates paid for hospital services furnished to individuals who are entitled to benefits under a State plan under title XIX of the Social Security Act and are not enrolled in such coordinated care programs.

(c) REPORTS BY STATES.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, the information on hospital rates submitted to such State under section 1932(b)(3)(P) of such Act.

SEC. 7109. CONFORMING AMENDMENTS.

(a) EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN PROGRAM.—Section 1128(b)(6)(C) of the Social Security Act (42 U.S.C. 1320a-7(b)(6)(C)) is amended—

(1) in clause (i), by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''an eligible managed care provider, as defined in section 1933(a)(1),''; and

(2) in clause (ii), by inserting ''section 1115 or'' after ''approved under''.

(b) STATE PLAN REQUIREMENTS.—Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(30)(C), by striking ''section 1903(m)'' and inserting ''section 1932(a)(1)(B)''; and

(2) in subsection (a)(57), by striking ''hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A))'' and inserting ''or hospice program'';

(3) in subsection (e)(2)(A), by striking ''or with an entity described in paragraph (2)(B)(iii), (2)(E), (2)(G), or

(6) of section 1903(m) under a contract described in section 1903(m)(2)(A);

(4) in subsection (p)(2)—

(A) by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''an eligible managed care provider, as defined in section 1933(a)(1),'';

(B) by striking ''an organization'' and inserting ''a provider''; and

(C) by striking ''any organization'' and inserting ''any provider''; and

(5) in subsection (w)(1), by striking ''sections 1903(m)(1)(A) and'' and inserting ''section''.

(c) PAYMENT TO STATES.—Section 1903(w)(7)(A)(viii) of such Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

''(viii) Services of an eligible managed care provider with a contract under section 1932(a)(1)(B).''.

(d) USE OF ENROLLMENT FEES AND OTHER CHARGES.—Section 1916 of such Act (42 U.S.C. 1396o) is amended in subsections (a)(2)(D) and (b)(2)(D) by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''an eligible managed care provider, as defined in section 1933(a)(1),'' each place it appears.

(e) EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.—Section 1925(b)(4)(D)(iv) of such Act (42 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended to read as follows:

''(iv) ENROLLMENT WITH ELIGIBLE MANAGED CARE PROVIDER.—Enrollment of the caretaker relative and dependent children with an eligible managed care provider, as defined in section 1933(a)(1), less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through an eligible managed care provider in accordance with sections 1932, 1933, and 1934.''.

(f) ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES.—Section 1926(a) of such Act (42 U.S.C. 1396r-7(a)) is amended in paragraphs (1) and (2) by striking ''health maintenance organizations under section 1903(m)'' and inserting ''eligible managed care providers under contracts entered into under section 1932(a)(1)(B)'' each place it appears.

(g) PAYMENT FOR COVERED OUTPATIENT DRUGS.—Section 1927(j)(1) of such Act (42 U.S.C. 1396r-8(j)(1)) is amended by striking ''***Health Maintenance Organizations, including those organizations that contract under section 1903(m),'' and inserting ''health maintenance organizations and medicaid managed care plans, as defined in section 1933(a)(2),''.

(h) DEMONSTRATION PROJECTS TO STUDY EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE FOR CERTAIN FAMILIES.—Section 4745(a)(5)(A) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396a note) is amended by striking ''(except section 1903(m)'' and inserting ''(except sections 1932, 1933, and 1934)''.

SEC. 7110. EFFECTIVE DATE; STATUS OF WAIVERS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to medical assistance furnished—

(1) during quarters beginning on or after October 1, 1996; or

(2) in the case of assistance furnished under a contract described in section 7102(b), during quarters beginning after the earlier of—

(A) the date of the expiration of the contract; or

(B) the expiration of the 1-year period which begins on the date of the enactment of this Act.

(b) APPLICATION TO WAIVERS.—

(1) EXISTING WAIVERS.—If any waiver granted to a State under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), is in effect or approved by the Secretary of Health and Human Services as of the applicable effective date described in subsection (a), the amendments made by this subtitle shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

(2) SECRETARIAL EVALUATION AND REPORT FOR EXISTING WAIVERS AND EXTENSIONS.—

(A) PRIOR TO APPROVAL.—On and after the applicable effective date described in subsection (a), the Secretary, prior to extending any waiver granted under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), shall—

(i) conduct an evaluation of—

(I) the waivers existing under such sections or other provision of law as of the date of the enactment of this Act; and

(II) any applications pending, as of the date of the enactment of this Act, for extensions of waivers under such sections or other provision of law; and

(ii) submit a report to the Congress recommending whether the extension of a waiver under such sections or provision of law should be conditioned on the State submitting the request for an extension complying with the provisions of sections 1932, 1933, and 1934 of the Social Security Act (as added by this subtitle).

(B) DEEMED APPROVAL.—If the Congress has not enacted legislation based on a report submitted under subparagraph (A)(ii) within 120 days after the date such report is submitted to the Congress, the recommendations contained in such report shall be deemed to be approved by the Congress.

Subtitle C—Additional Reforms of Medicaid Acute Care Program

SEC. 7201. PERMITTING INCREASED FLEXIBILITY IN MEDICAID COST-SHARING.

(a) IN GENERAL.—Subsections (a)(3) and (b)(3) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are amended by striking everything that follows ''other care and services'' and inserting the following: ''will be established pursuant to a public schedule of charges and will be adjusted to reflect the income, resources, and family size of the individual provided the item or service.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 7203. DELAY IN APPLICATION OF NEW REQUIREMENTS.

(a) DELAY IN IMPLEMENTATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no change in law—

(A) which has the effect of imposing a requirement on a State under a State plan under title XIX of the Social Security Act, and

(B) with respect to the Secretary of Health and Human Services is required to issue regulations to carry out such requirement,

shall take effect until the date the Secretary promulgates such regulation as a final regulation.

(2) STATE OPTION.—Except as otherwise provided by the Secretary, a State may elect to have a change in a law described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(b) PROHIBITION OF CHANGES IN FINAL REGULATIONS DURING A FISCAL YEAR.—

(1) IN GENERAL.—Except as provided in paragraph (2), any change in a regulation of the Secretary of Health and Human Services relating to the medicaid program under title XIX of the Social Security Act shall not become effective until the beginning of the fiscal year following the fiscal year in which the change was promulgated.

(2) STATE OPTION.—Except as otherwise provided by the Secretary, a State may elect to have a change in a regulation described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(c) SENSE OF CONGRESS REGARDING FEDERAL PAYMENT FOR NEW MEDICAID MANDATES.—It is the sense of Congress that if a State is required by future legislation to provide for additional services, eligible individuals, or otherwise incur additional costs under its medicaid program under title XIX of the Social Security Act, the Federal Government shall provide for full payment of any such additional costs for at least the first two years in which such requirement applies.

SEC. 7204. DEADLINE ON ACTION ON WAIVERS.

(a) IN GENERAL.—In considering applications for medicaid waivers—

(1) the application shall be deemed granted unless the Secretary of Health and Human Services, within ninety days after the date of the submission of the application of the Secretary, either denies the application in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application, and

(2) after the date the Secretary receives such additional information, the application shall be deemed granted unless the Secretary within ninety days of such date, denies such application.

(b) MEDICAID WAIVERS.—In this section, the term ''medicaid waiver'' means the request of a State for a waiver of a provision of title XIX of the Social Security Act (or of another provision of law that applies to State plans under such title), and includes such a waiver under the authority of section 1115 or section 1915 of the Social Security Act or under section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967.

Subtitle D—National Commission on Medicaid Restructuring

SEC. 7301. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—There is hereby established the National Commission on Medicaid Restructuring (in this subtitle referred to as the ''Commission'').

(b) COMPOSITION.—The Commission shall be composed as follows:

(1) 2 FEDERAL OFFICIALS.—The President shall appoint 2 Federal officials, one of whom the President shall designate as chairperson of the Commission.

(2) 4 MEMBERS OF CONGRESS.—(A) The Speaker of the House of Representatives shall appoint one Member of the House as a member.

(B) The minority leader of the House of Representatives shall appoint one Member of the House as a member.

(C) The majority leader of the Senate shall appoint one Member of the Senate as a member.

(D) The minority leader of the Senate shall appoint one Member of the Senate as a member.

(3) 6 STATE GOVERNMENT REPRESENTATIVES.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(B) The minority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(4) 6 EXPERTS.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 4 individuals who are not officials of the Federal or State governments and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(B) The President shall appoint 2 individuals who are not officials of the Federal or State governments and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(c) INITIAL APPOINTMENT.—Members of the Commission shall first be appointed by not later than February 1, 1996.

(d) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission shall serve without compensation.

(2) TRAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 7302. DUTIES OF COMMISSION.

(a) STUDY OF MEDICAID PROGRAM.—

(1) IN GENERAL.—The Commission shall study and make recommendations to the Congress, the President, and the Secretary regarding the need for changes (in addition to the changes effected under this title) in the laws and regulations regarding the medicaid program under title XIX of the Social Security Act.

(2) SPECIFIC CONCERNS.—The Commission shall specifically address each of the following:

(A) Changes needed to ensure adequate access to health care for low-income individuals.

(B) Promotion of quality care.

(C) Deterrence of fraud and abuse.

(D) Providing States with additional felxibility in implementing their medicaid plans.

(E) Methods of containing Federal and State costs.

(b) REPORTS.—

(1) FIRST REPORT.—The Commission shall issue a first report to Congress by not later than December 31, 1996.

(2) SUBSEQUENT REPORTS.—The Commission shall issue subsequent reports to Congress by not later than December 31, 1997, and December 31, 1998.

SEC. 7303. ADMINISTRATION.

(a) APPOINTMENT OF STAFF.—

(1) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director who shall be appointed by the Chairperson with the approval of the Commission. The Executive Director shall be paid at a rate not to exceed the rate of basic pay payable for level III of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the Executive Director may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(3) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(b) PROVISION OF ADMINISTRATIVE SUPPORT SERVICES BY HHS.—Upon the request of the Commission, the Secretary of Health and Human Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 7304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $3,000,000 for fiscal year 1996, $4,000,000 for each of fiscal years 1997 and 1998, and $2,000,000 for fiscal year 1999.

SEC. 7305. TERMINATION.

The Commission shall terminate on December 31, 1998.

Subtitle E—Restrictions on Disproportionate Share Payments

SEC. 7401. REFORMING DISPROPORTIONATE SHARE PAYMENTS UNDER STATE MEDICAID PROGRAMS.

(a) TARGETING PAYMENTS.—Section 1923 of the Social Security Act (42 U.S.C.1396r-3) is amended—

(1) in subsection (a)(1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(B) by striking ''(1)'' and inserting ''(1)(A)'',

(C) in clause (i) (as so redesignated) by striking ''(b)(1)'' and inserting ''(b)(1)(A)'', and

(D) by adding at the end the following:

''(B) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State has submitted to the Secretary, by not later than such date, an amendment to such plan that utilizes the definition of such hospitals specified in subsection (b)(1)(B) in lieu of the definition established by the State under subparagraph (a)(i).'';

(2) in subsection (a)(2)(A)—

(A) by inserting ''(i)'' after ''(2)(A)'',

(B) by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)(i)'', and

(C) by adding at the end the following:

''(ii) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1996, the State must submit to the Secretary by not later than April 1, 1996, the State plan amendment described in paragraph (1)(B), consistent with subsection (c), effective for inpatient hospital services furnished on or after July 1, 1996.'';

(3) in subsection (b)—

(A) in the heading, by striking ''HOSPITALS DEEMED DISPROPORTIONATE SHARE'' and inserting ''DISPROPORTIONATE SHARE HOSPITALS'',

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(ii) by striking ''(1) For purposes of subsection (a)(1)'' and inserting ''(1)(A) For purposes of subsection (a)(1)(A)'', and

(iii) by adding at the end the following:

''(B) For purposes of subsection (a)(1)(B), a hospital that meets the requirements of subsection (d) is a disproportionate share hospital only if—

''(i) in the case of a hospital that is not described in subsection (d)(2)(A)(i), the hospital's low-income utilization rate (as defined in paragraph (3)) exceeds 25 percent; or

''(ii) in the case of a hospital that is described in subsection (d)(2)(A)(i)—

''(I) the hospital meets the requirement of clause (i), or

''(II) the hospital's medicaid inpatient utilization rate (as defined in paragraph (2)) exceeds 20 percent.'';

(C) in paragraph (2) by striking ''(1)(A)'' and inserting ''(1)'',

(D) in paragraph (3) by striking ''(1)(B)'' and inserting ''(1)'', and

(E) by striking paragraph (4);

(4) in subsection (c)—

(A) in paragraph (2), by striking ''subparagraph (A) or (B) of subsection (b)(1)'' and inserting ''clause (i) or (ii) of subsection (b)(1)(A)'',

(B) by striking paragraph (3), and

(C) in the matter following paragraph (3)—

(i) by striking ''(1)(B)'' each place it appears and inserting ''(1)(A)(ii)'', and

(ii) by striking ''(2)(A)'' each place it appears and inserting ''(2)(A)(i)'' ; and

(5) in subsection (e)—

(A) in paragraph (1)(C), by striking ''meets the requirement of subsection (d)(3)'' and inserting ''makes payments under this section only to hospitals described in subsection (b)(1)(B)'', and

(B) in paragraph (2)—

(i) by inserting ''and'' at the end of subparagraph (B), and

(ii) by striking subparagraph (C).

(b) DIRECT PAYMENT BY STATE.—Section 1923(a) of such Act (42 U.S.C. 1396r–4(a)), as amended by subsection (a), is further amended—

(1) in paragraph (1), by adding at the end the following

''(C) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State provides that any payments made under this section with respect to individuals who are—

''(i) entitled to benefits under the State plan, and

''(ii) enrolled with a health maintenance organization or other managed care plan,

are, at the option of the hospital, made directly to such hospital by the State.''; and

(2) in paragraph (2)(A)(ii), by striking ''amendment described in paragraph (1)(B)'' and inserting '' amendments described in subparagraphs (B) and (C) of paragraph (1)''.

(c) ADJUSTMENT TO NATIONAL DSH LIMIT; STATE ALLOCATIONS.—The Secretary of Health and Human Services shall make appropriate adjustments in—

(1) the national DSH payment limit established under section 1923(f)(1(B) of the Social Security Act, and

(2) the State DSH allotments established under section 1923(f)(2) of such Act.

to reflect the amendments made by subsection (a).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans after—

(1) July 1, 1996, or

(2) in the case of a State with a State legislature that is not scheduled to have a regular legislative session in 1996, July 1, 1997.

Subtitle F—Fraud Reduction

SEC. 7501. MONITORING PAYMENTS FOR DUAL ELIGIBLES.

The Administrator of the Health Care Financing Administration shall develop mechanisms to better monitor and prevent inappropriate payments under the medicaid program in the case of individuals who are dually eligible for benefits under such program and under the medicare program.

SEC. 7502. IMPROVED IDENTIFICATION SYSTEMS.

The Administrator of the Health Care Financing Administration shall develop improved mechanisms, such as picture identification documents and smart documents, to provide methods of improved identification and tracking of beneficiaries and providers that perpetrate fraud against the medicaid program.

TITLE VIII—MEDICARE

SEC. 8000. SHORT TITLE; REFERENCES IN TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE OF TITLE.—This title may be cited as the ''Medicare Preservation Act of 1995''.

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

(c) REFERENCES TO OBRA.—In this title, the terms ''OBRA–1986'', ''OBRA–1987'', ''OBRA–1989'', ''OBRA–1990'', and ''OBRA–1993'' refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

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

TITLE VIII—MEDICARE

Sec. 8000. Short title; references in title; table of contents.

Subtitle A—Medicare Choice Program

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

Sec. 8001. Increasing choice under medicare.
Sec. 8002. Medicare Choice program.

''PART C—PROVISIONS RELATING TO MEDICARE CHOICE

''Sec. 1851. Requirements for Medicare Choice organizations.
''Sec. 1852. Requirements relating to benefits, provision of services, enrollment, and premiums.
''Sec. 1853. Patient protection standards.
''Sec. 1854. Provider-sponsored organizations.
''Sec. 1855. Payments to Medicare Choice organizations.
''Sec. 1856. Establishment of standards for Medicare Choice organizations and products.
''Sec. 1857. Medicare Choice certification.
''Sec. 1858. Contracts with Medicare Choice organizations.
''Sec. 8004. Transitional rules for current medicare HMO program.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

Sec. 8151. Modification of payment areas used to determine payments for physicians' services under medicare.

Subtitle C—Medicare Payments to Health Care Providers

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

Sec. 8201. One-year freeze in payments to providers.

PART 2—PROVISIONS AFFECTING DOCTORS

Sec. 8211. Updating fees for physicians' services.
Sec. 8212. Use of real GDP to adjust for volume and intensity.

PART 3—PROVISIONS AFFECTING HOSPITALS

Sec. 8221. Reduction in update for inpatient hospital services.
Sec. 8222. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 8223. Establishment of prospective payment system for outpatient services.
Sec. 8224. Reduction in medicare payments to hospitals for inpatient capital-related costs.
Sec. 8225. Moratorium on PPS exemption for long-term care hospitals.

PART 4—PROVISIONS AFFECTING OTHER PROVIDERS

Sec. 8231. Revision of payment methodology for home health services.
Sec. 8232. Limitation of home health coverage under part A.
Sec. 8233. Reduction in fee schedule for durable medical equipment.
Sec. 8234. Nursing home billing.
Sec. 8235. Freeze in payments for clinical diagnostic laboratory tests.

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

Sec. 8241. Teaching hospital and graduate medical education trust fund.
Sec. 8242. Reduction in payment adjustments for indirect medical education.

Subtitle D—Provisions Relating to Medicare Beneficiaries

Sec. 8301. Part B premium.
Sec. 8302. Full cost of Medicare part B coverage payable by high-income individuals.
Sec. 8303. Expanded coverage of preventive benefits.

Subtitle E—Medicare Fraud Reduction

Sec. 8401. Increasing beneficiary awareness of fraud and abuse.
Sec. 8402. Beneficiary incentives to report fraud and abuse.
Sec. 8403. Elimination of home health overpayments.
Sec. 8404. Skilled nursing facilities.
Sec. 8405. Direct spending for anti-fraud activities under medicare.
Sec. 8406. Fraud reduction demonstration project.
Sec. 8407. Report on competitive pricing.

Subtitle F—Improving Access to Health Care

PART 1—ASSISTANCE FOR RURAL PROVIDERS

SUBPART A—RURAL HOSPITALS

Sec. 8501. Sole community hospitals.
Sec. . Medicare rural hospital flexibility.
Sec. . Medicare dependent rural hospital.
Sec. . PROPAL recommendations on urban medicare dependent hospitals.
Sec. . Payments to physician assistants and nurse practitioners.
Sec. 8504. Classification of rural referral centers.
Sec. 8505. Floor on area wage index.
Sec. 8506. Medical education.

SUBPART B—RURAL PHYSICIANS AND OTHER PROVIDERS

Sec. 8511. Provider incentives.

Sec. 8512. National Health Service Corps loan repayments excluded from gross income.
Sec. 8513. Telemedicine payment methodology.
Sec. 8514. Demonstration project to increase choice in rural areas.
PART 2—MEDICARE SUBVENTION
Sec. 8521. Medicare program payments for health care services provided in the military health services system.
Subtitle G—Other Provisions
Sec. 8601. Extension and expansion of existing secondary payer requirements.
Sec. 8602. Repeal of medicare and medicaid coverage data bank.
Sec. 8603. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 8604. Additional exclusion from coverage.
Sec. 8605. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.
Subtitle I—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions
Sec. 8801. Establishment of Medicare Growth Reduction Trust Fund for part B savings
Sec. Establishment of Commission to prepare for the 21st century.
Subtitle A—Medicare Choice Program
PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

SEC. 8001. INCREASING CHOICE UNDER MEDICARE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

''PROVIDING FOR CHOICE OF COVERAGE

''SEC. 1805. (a) CHOICE OF COVERAGE.—

''(1) IN GENERAL.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

''(A) THROUGH FEE-FOR-SERVICE SYSTEM.—Through the provisions of parts A and B.

''(B) THROUGH A MEDICARE CHOICE PRODUCT.—Through a Medicare Choice product (as defined in paragraph (2)), which may be—

''(i) a product offered by a provider-sponsored organization,

''(ii) a product offered by an organization that is a union, Taft-Hartley plan, or association, or

''(iii) a product providing for benefits on a fee-for-service or other basis.

Such a product may be a high deductible/medisave product (and a contribution into a Medicare Choice medical savings account (MSA)) under the demonstration project provided under section 1859.

''(2) MEDICARE CHOICE PRODUCT DEFINED.—For purposes this section and part C, the term 'Medicare Choice product' means health benefits coverage offered under a policy, contract, or plan by a Medicare Choice organization (as defined in section 1851(a)) pursuant to and in accordance with a contract under section 1858.

''(3) TERMINOLOGY RELATING TO OPTIONS.—For purposes of this section and part C—

''(A) NON-MEDICARE-CHOICE OPTION.—An individual who has made the election described in paragraph (1)(A) is considered to have elected the 'Non-Medicare Choice option'.

''(B) MEDICARE CHOICE OPTION.—An individual who has made the election described in paragraph (1)(B) to obtain coverage through a Medicare Choice product is considered to have elected the 'Medicare Choice option' for that product.

''(b) SPECIAL RULES.—

''(1) RESIDENCE REQUIREMENT.—Except as the Secretary may otherwise provide, an individual is eligible to elect a Medicare Choice product offered by a Medicare Choice organization only if the organization in relation to the product serves the geographic area in which the individual resides.

''(2) AFFILIATION REQUIREMENTS FOR CERTAIN PRODUCTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an individual is eligible to elect a Medicare Choice product offered by a limited enrollment Medicare Choice organization (as defined in section 1852(c)(4)(D)) only if—

''(i) the individual is eligible under section 1852(c)(4) to make such election, and

''(ii) in the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)), the individual elected under this section a Medicare Choice product offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor.

''(B) NO REELECTION AFTER DISENROLLMENT FOR CERTAIN PRODUCTS.—An individual is not eligible to elect a Medicare Choice product offered by a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor if the individual previously had elected a Medicare Choice product offered by the organization and had subsequently discontinued to elect such a product offered by the organization.

''(c) PROCESS FOR EXERCISING CHOICE.—

''(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

''(2) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for Medicare Choice products in an area as soon as such products become available in that area.

''(3) COORDINATION THROUGH MEDICARE CHOICE ORGANIZATIONS.—

''(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a Medicare Choice product offered by a Medicare Choice organization to make such election through the filing of an appropriate election form with the organization.

''(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a Medicare Choice product offered by a Medicare Choice organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

''(4) DEFAULT.—

''(A) INITIAL ELECTION.—

''(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Non-Medicare Choice option.

''(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a Medicare Choice organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected an appropriate Medicare Choice product offered by the organization.

''(B) CONTINUING PERIODS.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

''(i) the individual changes the election under this section, or

''(ii) a Medicare Choice product is discontinued, if the individual had elected such product at the time of the discontinuation.

''(5) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY TO PROMOTE EFFICIENT ADMINISTRATION.—In order to promote the efficient administration of this section and the Medicare Choice program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in Medicare Choice products under this section.

''(d) PROVISION OF BENEFICIARY INFORMATION TO PROMOTE INFORMED CHOICE.—

''(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to disseminate broadly information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options. Such information shall be made available on such a timely basis (such as 6 months before the date an individual would first attain eligibility for medicare on the basis of age) as to permit individuals to elect the Medicare Choice option during the initial election period described in subsection (e)(1).

''(2) USE OF NONFEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.

''(3) SPECIFIC ACTIVITIES.—In carrying out this subsection, the Secretary shall provide for at least the following activities in all areas in which Medicare Choice products are offered:

''(A) INFORMATION BOOKLET.—

''(i) IN GENERAL.—The Secretary shall publish an information booklet and disseminate the booklet to all individuals eligible to elect the Medicare Choice option under this section during coverage election periods.

''(ii) INFORMATION INCLUDED.—The booklet shall include information presented in plain English and in a standardized format regarding—

''(I) the benefits (including cost-sharing) and premiums for the various Medicare Choice products in the areas involved;

''(II) the quality of such products, including consumer satisfaction information; and

''(III) rights and responsibilities of medicare beneficiaries under such products.

''(iii) PERIODIC UPDATING.—The booklet shall be updated on a regular basis (not less often than once every 12 months) to reflect changes in the availability of Medicare Choice products and the benefits and premiums for such products.

''(B) TOLL-FREE NUMBER.—The Secretary shall maintain a toll-free number for inquiries regarding Medicare Choice options and the operation of part C.

''(C) GENERAL INFORMATION IN MEDICARE HANDBOOK.—The Secretary shall include information about the Medicare Choice option provided under this section in the annual notice of medicare benefits under section 1804.

''(e) COVERAGE ELECTION PERIODS.—

''(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION.—

''(A) IN GENERAL.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to

benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a Medicare Choice product during the period, coverage under the product becomes effective as of the first date on which the individual may receive such coverage.

''(B) TRANSITION PERIOD DEFINED.—In this subsection, the term 'transition period' means, with respect to an individual in an area, the period beginning on the first day of the first month in which a Medicare Choice product is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).

''(2) DURING TRANSITION PERIOD.—Subject to paragraph (6)—

''(A) CONTINUOUS OPEN ENROLLMENT INTO A MEDICARE CHOICE OPTION.—During the transition period, an individual who is eligible to make an election under this section and who has elected the non-Medicare Choice option may change such election to a Medicare Choice option at any time.

''(B) OPEN DISENROLLMENT BEFORE END OF TRANSITION PERIOD.—During the transition period, an individual who has elected a Medicare Choice option for a Medicare Choice product may change such election to another Medicare Choice product or to the non-Medicare Choice option.

''(3) ANNUAL, COORDINATED ELECTION PERIOD.—

''(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during annual, coordinated election periods.

''(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of October before such year.

''(C) MEDICARE CHOICE HEALTH FAIR DURING OCTOBER, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform individuals, who are eligible to elect Medicare Choice products, about such products and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

''(4) SPECIAL 90-DAY DISENROLLMENT OPTION.—

''(A) IN GENERAL.—In the case of the first time an individual elects a Medicare Choice option under this section, the individual may discontinue such election through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the Medicare Choice product under such option becomes effective.

''(B) EFFECT OF DISCONTINUATION OF ELECTION.—An individual who discontinues an election under this paragraph shall be deemed at the time of such discontinuation to have elected the Non-Medicare Choice option.

''(5) SPECIAL ELECTION PERIODS.—An individual may discontinue an election of a Medicare Choice product offered by a Medicare Choice organization other than during an annual, coordinated election period and make a new election under this section if—

''(A) the organization's or product's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the product;

''(B) in the case of an individual who has elected a Medicare Choice product offered by a Medicare Choice organization, the individual is no longer eligible to elect the product because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a product offered by a qualified association or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1852(c)(3)(B));

''(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

''(i) the organization offering the product substantially violated a material provision of the organization's contract under part C in relation to the individual and the product; or

''(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the product's provisions in marketing the product to the individual; or

''(D) the individual meets such other conditions as the Secretary may provide.

''(f) EFFECTIVENESS OF ELECTIONS.—

''(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

''(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and an election to discontinue a Medicare Choice option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

''(3) ANNUAL, COORDINATED ELECTION PERIOD AND MEDISAVE ELECTION.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

''(4) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

''(g) EFFECT OF ELECTION OF MEDICARE CHOICE OPTION.—Subject to the provisions of section 1855(f), payments under a contract with a Medicare Choice organization under section 1858(a) with respect to an individual electing a Medicare Choice product offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual.

''(h) DEMONSTRATION PROJECTS.—The Secretary shall conduct demonstration projects to test alternative approahces to coordinated open enrollments in different markets, including different annual enrollment periods and models of rolling open enrollment periods. The Secretary may waive previous provisions of this section in order to carry out such projects.''.

SEC. 8002. MEDICARE CHOICE PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

''PART C—PROVISIONS RELATING TO MEDICARE CHOICE

''REQUIREMENTS FOR MEDICARE CHOICE ORGANIZATIONS

''SEC. 1851. (a) MEDICARE CHOICE ORGANIZATION DEFINED.—In this part, subject to the succeeding provisions of this section, the term 'Medicare Choice organization' means a public or private entity that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.

''(b) ORGANIZED AND LICENSED UNDER STATE LAW.—

''(1) IN GENERAL.—A Medicare Choice organization shall be organized and licensed under State law to offer health insurance or health benefits coverage in each State in which it offers a Medicare Choice product.

''(2) EXCEPTION FOR UNION AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall not apply to an Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)).

''(3) EXCEPTION FOR PROVIDER-SPONSORED ORGANIZATIONS.—Subject to paragraph (5), paragraph (1) shall not apply to a Medicare Choice organization that is a provider-sponsored organization (as defined in section 1854(a)).

''(4) EXCEPTION FOR QUALIFIED ASSOCIATIONS.—Paragraph (1) shall not apply to a Medicare Choice organization that is a qualified association (as defined in section 1852(c)(4)(B)).

''(5) LIMITATION.—Effective on and after January 1, 2000, paragraph (1) shall only apply (and paragraph (3) shall no longer apply) to a Medicare Choice organization in a State if the standards for licensure of the organization under the law of the State are identical to the standards established under section 1856(b).

''(c) PREPAID PAYMENT.—A Medicare Choice organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

''(d) ASSUMPTION OF FULL FINANCIAL RISK.—The Medicare Choice organization shall assume full financial risk on a prospective basis for the provision of the health care services (other than hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

''(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

''(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

''(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

''(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)) or a qualified association (as defined in section 1852(c)(4)(B)), this subsection shall not apply with respect to Medicare Choice products offered by such organization and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).

''(e) PROVISION AGAINST RISK OF INSOLVENCY.—

''(1) IN GENERAL.—Each Medicare Choice organization shall meet standards under section 1856 relating to the financial solvency

and capital adequacy of the organization. Such standards shall take into account the nature and type of Medicare Choice products offered by the organization.

''(2) TREATMENT OF TAFT-HARTLEY SPONSORS.—An entity that is a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).

''(3) TREATMENT OF CERTAIN QUALIFIED ASSOCIATIONS.—An entity that is a qualified association is deemed to meet the requirement of paragraph (1) with respect to Medicare Choice products offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.

''(f) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1997:

''(1) HEALTH MAINTENANCE ORGANIZATIONS.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

''(2) LICENSED INSURERS.—An organization that is organized under the laws of any State and—

''(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or

''(B) is licensed by a State agency as a service benefit plan,

but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.

''(3) CURRENT RISK-CONTRACTORS.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this section.

''REQUIREMENTS RELATING TO BENEFITS, PROVISION OF SERVICES, ENROLLMENT, AND PREMIUMS

''SEC. 1852. (a) BENEFITS COVERED.—

''(1) IN GENERAL.—Each Medicare Choice product offered under this part shall provide benefits for at least the items and services for which benefits are available under parts A and B consistent with the standards for coverage of such items and services applicable under this title.

''(2) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a Medicare Choice organization may (in the case of the provision of items and services to an individual under this part under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

''(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

''(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

''(3) SATISFACTION OF REQUIREMENT.—A Medicare Choice product offered by a Medicare Choice organization satisfies paragraph (1) with respect to benefits for items and services if the following requirements are met:

''(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the product provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.

''(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

''(i) NON-MEDICARE CHOICE LIABILITY.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had elected the non-Medicare Choice option.

''(ii) MEDICARE COINSURANCE APPLIED TO PRODUCT PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the non-Medicare Choice option) of the payment rate provided under the contract.

''(b) ANTIDISCRIMINATION.—A Medicare Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

''(c) GUARANTEED ISSUE AND RENEWAL.—

''(1) IN GENERAL.—Except as provided in this subsection, a Medicare Choice organization shall provide that at any time during which elections are accepted under section 1805 with respect to a Medicare Choice product offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

''(2) PRIORITY.—If the Secretary determines that a Medicare Choice organization, in relation to a Medicare Choice product it offers, has a capacity limit and the number of eligible individuals who elect the product under section 1805 exceeds the capacity limit, the organization may limit the election of individuals of the product under such section but only if priority in election is provided—

''(A) first to such individuals as have elected the product at the time of the determination, and

''(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the product) on a basis described in subsection (b).

''(3) LIMITATION ON TERMINATION OF ELECTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), a Medicare Choice organization may not for any reason terminate the election of any individual under section 1805 for a Medicare Choice product it offers.

''(B) BASIS FOR TERMINATION OF ELECTION.—A Medicare Choice organization may terminate an individual's election under section 1805 with respect to a Medicare Choice product it offers if—

''(i) any premiums required with respect to such product are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of premiums),

''(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

''(iii) the product is terminated with respect to all individuals under this part.

Any individual whose election is so terminated is deemed to have elected the Non-Medicare Choice option (as defined in section 1805(a)(3)(A)).

''(C) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1858, each Medicare Choice organization receiving an election form under section 1805(c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

''(4) SPECIAL RULES FOR LIMITED ENROLLMENT MEDICARE CHOICE ORGANIZATIONS.—

''(A) TAFT-HARTLEY SPONSORS.—

''(i) IN GENERAL.—Subject to subparagraph (D), a Medicare Choice organization that is a Taft-Hartley sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are entitled to obtain benefits through such products under the terms of an applicable collective bargaining agreement.

''(ii) TAFT-HARTLEY SPONSOR.—In this part and section 1805, the term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

''(B) QUALIFIED ASSOCIATIONS.—

''(i) IN GENERAL.—Subject to subparagraph (D), a Medicare Choice organization that is a qualified association (as defined in clause (iii)) shall limit eligibility of individuals under this part for products it offers to individuals who are members of the association (or who are spouses of such individuals).

''(ii) LIMITATION ON TERMINATION OF COVERAGE.—Such a qualifying association offering a Medicare Choice product to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

''(iii) QUALIFIED ASSOCIATION.—In this part and section 1805, the term 'qualified association' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

''(I) has been formed for purposes other than the sale of any health insurance and does not restrict membership based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual,

''(II) does not exist solely or principally for the purpose of selling insurance, and

''(III) has at least 1,000 individual members or 200 employer members.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

''(C) UNIONS.—

''(i) IN GENERAL.—Subject to subparagraph (D), a union sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.

''(ii) UNION SPONSOR.—In this part and section 1805, the term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

''(D) LIMITATION.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.

''(E) LIMITED ENROLLMENT MEDICARE CHOICE ORGANIZATION.—In this part and section 1805, the term 'limited enrollment Medicare Choice organization' means a Medicare

Choice organization that is a union sponsor, a Taft-Hartley sponsor, or a qualified association.

''(F) EMPLOYER, ETC..—In this paragraph, the terms 'employer', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

''(d) SUBMISSION AND CHARGING OF PREMIUMS.—

''(1) IN GENERAL.—Each Medicare Choice organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

''(A) the amount of the monthly premiums for coverage under each Medicare Choice product it offers under this part in each payment area (as determined for purposes of section 1855) in which the product is being offered; and

''(B) the enrollment capacity in relation to the product in each such area.

''(2) AMOUNTS OF PREMIUMS CHARGED.—The amount of the monthly premium charged by a Medicare Choice organization for a Medicare Choice product offered in a payment area to an individual under this part shall be equal to the amount (if any) by which—

''(A) the amount of the monthly premium for the product for the period involved, as established under paragraph (3) and submitted under paragraph (1), exceeds

''(B) 1/12 of the annual Medicare Choice capitation rate specified in section 1855(b)(2) for the area and period involved.

''(3) UNIFORM PREMIUM.—The premiums charged by a Medicare Choice organization under this part may not vary among individuals who reside in the same payment area.

''(4) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare Choice organization shall permit the payment of monthly premiums on a monthly basis and may terminate election of individuals for a Medicare Choice product for failure to make premium payments only in accordance with subsection (c)(3)(B).

''(5) RELATION OF PREMIUMS AND COST-SHARING TO BENEFITS.—In no case may the portion of a Medicare Choice organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (to the extent attributable to the minimum benefits described in subsection (a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a Medicare Choice organization.

''(e) REQUIREMENT FOR ADDITIONAL BENEFITS, PART B PREMIUM DISCOUNT REBATES, OR BOTH.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—Each Medicare Choice organization (in relation to a Medicare Choice product it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the product for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis) of the part B monthly premium, or a combination thereof, in an total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

''(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a product, is the amount (if any) by which—

''(i) the average of the capitation payments made to the organization under this part for the product at the beginning of contract year, exceeds

''(ii) the actuarial value of the minimum benefits described in subsection (a)(1) under the product for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

''(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a product, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

''(D) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a product in a service area.

''(E) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a Medicare Choice organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

''(2) LIMITATION ON AMOUNT OF PART B PREMIUM DISCOUNT REBATE.—In no case shall the amount of a part B premium discount rebate under paragraph (1)(A) exceed, with respect to a month, the amount of premiums imposed under part B (not taking into account section 1839(b) (relating to penalty for late enrollment) or 1839(h) (relating to affluence testing)), for the individual for the month. Except as provided in the previous sentence, a Medicare Choice organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

''(3) STABILIZATION FUND.—A Medicare Choice organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the Medicare Choice product in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

''(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

''(5) ADJUSTED COMMUNITY RATE.—

''(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a Medicare Choice organization, either—

''(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a Medicare Choice product under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

''(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other Medicare Choice coverage, or individuals in the area, in the State, or in the United States, eligible to elect Medicare Choice coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

''(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a Medicare Choice organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a Medicare Choice product may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a product.

''(f) RULES REGARDING PHYSICIAN PARTICIPATION.—

''(1) PROCEDURES.—Each Medicare Choice organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under Medicare Choice products offered by the organization under this part. Such procedures shall include—

''(A) providing notice of the rules regarding participation,

''(B) providing written notice of participation decisions that are adverse to physicians, and

''(C) providing a process within the organization for appealing adverse decisions, including the presentation of information and views of the physician regarding such decision.

''(2) CONSULTATION IN MEDICAL POLICIES.—A Medicare Choice organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

''(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

''(A) IN GENERAL.—Each Medicare Choice organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

''(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

''(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

''(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled

with the organization who receive services from the physician or the physician group, and

''(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

''(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

''(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a Medicare Choice organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

''(4) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—The previous provisions of this subsection shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product if the organization does not have agreements between physicians and the organization for the provision of benefits under the product.

''(g) PROVISION OF INFORMATION.—A Medicare Choice organization shall provide the Secretary with such information on the organization and each Medicare Choice product it offers as may be required for the preparation of the information booklet described in section 1805(d)(3)(A).

''(h) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICARE CHOICE PRODUCT.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its medicaid program under title XIX with those provided under a Medicare Choice product in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.

''PATIENT PROTECTION STANDARDS

''SEC. 1853. (a) DISCLOSURE TO ENROLLEES.—A Medicare Choice organization shall disclose in clear, accurate, and standardized form, information regarding all of the following for each Medicare Choice product it offers:

''(1) Benefits under the Medicare Choice product offered, including exclusions from coverage.

''(2) Rules regarding prior authorization or other review requirements that could result in nonpayment.

''(3) Potential liability for cost-sharing for out-of-network services.

''(4) The number, mix, and distribution of participating providers.

''(5) The financial obligations of the enrollee, including premiums, deductibles, copayments, and maximum limits on out-of-pocket losses for items and services (both in and out of network).

''(6) Statistics on enrollee satisfaction with the product and organization, including rates of reenrollment.

''(7) Enrollee rights and responsibilities, including the grievance process provided under subsection (f).

''(8) A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.

''(9) A description of the organization's quality assurance program under subsection (d).

Such information shall be disclosed to each enrollee under this part at the time of enrollment and at least annually thereafter.

''(b) ACCESS TO SERVICES.—

''(1) IN GENERAL.—A Medicare Choice organization offering a Medicare Choice product may restrict the providers from whom the benefits under the product are provided so long as—

''(A) the organization makes such benefits available and accessible to each individual electing the product within the product service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

''(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

''(C) the product provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

''(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

''(ii) it was not reasonable given the circumstances to obtain the services through the organization; and

''(D) coverage is provided for emergency services (as defined in paragraph (5)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

''(2) MINIMUM PAYMENT LEVELS WHERE PROVIDING POINT-OF-SERVICE COVERAGE.—If a Medicare Choice product provides benefits for items and services (not described in paragraph (1)(C)) through a network of providers and also permits payment to be made under the product for such items and services not provided through such a network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

''(A) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

''(B) the amount charged by the entity furnishing such items and services.

''(3) PROTECTION OF ENROLLEES FOR CERTAIN OUT-OF-NETWORK SERVICES.—

''(A) PARTICIPATING PROVIDERS.—In the case of physicians' services or renal dialysis services described in subparagraph (C) which are furnished by a participating physician or provider of services or renal dialysis facility to an individual enrolled with a Medicare Choice organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services or renal dialysis facility will accept as payment in full from the organization the amount that would be payable to the physician or provider of services or renal dialysis facility under part B and from the individual under such part, if the individual were not enrolled with such an organization under this part.

''(B) NONPARTICIPATING PROVIDERS.—In the case of physicians' services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a Medicare Choice organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

''(C) SERVICES DESCRIBED.—The physicians' services or renal dialysis services described in this subparagraph are physicians' services or renal dialysis services which are furnished to an enrollee of a Medicare Choice organization under this part by a physician, provider of services, or renal dialysis facility who is not under a contract with the organization.

''(4) PROTECTION FOR NEEDED SERVICES.—A Medicare Choice organization that provides covered services through a network of providers shall provide coverage of services provided by a provider that is not part of the network if the service cannot be provided by a provider that is part of the network and the organization authorized the service directly or through referral by the primary care physician who is designated by the organization for the individual involved.

''(5) EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

''(A) health care items and services furnished in the emergency department of a hospital, and

''(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (6)) until the condition is stabilized.

''(6) EMERGENCY MEDICAL CONDITION.—In paragraph (5), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

''(A) placing the person's health in serious jeopardy,

''(B) serious impairment to bodily functions, or

''(C) serious dysfunction of any bodily organ or part.

''(7) PROTECTION AGAINST BALANCE BILLING.—The limitations on billing that apply to a provider (including a physician) under parts A and B in the case of an individual electing the non-Medicare Choice option shall apply to an individual who elects the Medicare Choice option in the case of any provider that (under the Medicare Choice option) may bill the enrollee directly for for services.

''(c) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each Medicare Choice organization shall establish procedures—

''(1) to safeguard the privacy of individually identifiable enrollee information, and

''(2) to maintain accurate and timely medical records for enrollees.

''(d) QUALITY ASSURANCE PROGRAM.—

''(1) IN GENERAL.—Each Medicare Choice organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals.

''(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

''(A) stress health outcomes;

''(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

''(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

''(D) monitors and evaluates high volume and high risk services and the care of acute and chronic conditions;

''(E) evaluates the continuity and coordination of care that enrollees receive;

''(F) has mechanisms to detect both underutilization and overutilization of services;

''(G) after identifying areas for improvement, establishes or alters practice parameters;

''(H) takes action to improve quality and assesses the effectiveness of such action through systematic follow-up;

''(I) makes available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

''(J) is evaluated on an ongoing basis as to its effectiveness; and

''(K) provide for external accreditation or review, by a utilization and quality control peer review organization under part B of title XI or other qualified independent review organization, of the quality of services furnished by the organization meets professionally recognized standards of health care (including providing adequate access of enrollees to services).

''(3) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—Paragraph (1) and subsection (c)(2) shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product to the extent the organization provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the plan for the provision of such benefits.

''(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a Medicare Choice organization is deemed to meet the requirements of paragraphs (1) and (2) of this subsection and subsection (c) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1856 to carry out this subsection and subsection (c).

''(e) COVERAGE DETERMINATIONS.—

''(1) DECISIONS ON NONEMERGENCY CARE.—A Medicare Choice organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

''(2) APPEALS.—

''(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

''(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

''(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited basis.

''(f) GRIEVANCES AND APPEALS.—

''(1) GRIEVANCE MECHANISM.—Each Medicare Choice organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees under this part.

''(2) APPEALS.—An enrollee with an organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

''(3) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503.

''(g) INFORMATION ON ADVANCE DIRECTIVES.—Each Medicare Choice organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

''(h) APPROVAL OF MARKETING MATERIALS.—

''(1) SUBMISSION.—Each Medicare Choice organization may not distribute marketing materials unless—

''(A) at least 45 days before the date of distribution the organization has submitted the material to the Secretary for review, and

''(B) the Secretary has not disapproved the distribution of such material.

''(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

''(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a Medicare Choice product in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the product and organization.

''(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each Medicare Choice organization shall conform to fair marketing standards in relation to Medicare Choice products offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form under section 1805 on behalf of any individual.

''(i) ADDITIONAL STANDARDIZED INFORMATION ON QUALITY, OUTCOMES, AND OTHER FACTORS.—

''(1) IN GENERAL.—In addition to any other information required to be provided under this part, each Medicare Choice organization shall provide the Secretary (at a time, not less frequently than annually, and in an electronic, standardized form and manner specified by the Secretary) such information as the Secretary determines to be necessary, consistent with this part, to evaluate the performance of the organization in providing benefits to enrollees.

''(2) INFORMATION TO BE INCLUDED.—Subject to paragraph (3), information to be provided under this subsection shall include at least the following:

''(A) Information on the characteristics of enrollees that may affect their need for or use of health services and the determination of risk-adjusted payments under section 1855.

''(B) Information on the types of treatments and outcomes of treatments with respect to the clinical health, functional status, and well-being of enrollees.

''(C) Information on health care expenditures and the volume and prices of procedures.

''(D) Information on the flexibility permitted by plans to enrollees in their selection of providers.

''(3) SPECIAL TREATMENT.—The Secretary may waive the provision of such information under paragraph (2), or require such other information, as the Secretary finds appropriate in the case of a newly established Medicare Choice organization for which such information is not available.

''(j) DEMONSTRATION PROJECTS.—The Secretary shall provide for demonstration projects to determine the effectiveness, cost, and impact of alternative methods of providing comparative information about the performance of Medicare Choice organizations and products and the performance of medicare supplemental policies in relation to such products. Such projects shall include information about health care outcomes resulting from coverage under different products and policies.

''PROVIDER-SPONSORED NETWORKS

''SEC. 1858. (a) PROVIDER-SPONSORED NETWORK DEFINED.—

''(1) IN GENERAL.—In this part, the term 'provider-sponsored network' means a public or private entity is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

''(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

''(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

''(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

''(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

''(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

''(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

''(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

''(D) both providers are part of an affiliated service group under section 414 of such Code.

''(4) CONTROL.—for purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

''(b) CERTIFICATION PROCESS FOR PROVIDER-SPONSORED NETWORKS.—

''(1) FEDERAL ACTION ON CERTIFICATION.—If—

''(A) a State fails to complete action on a licensing application of an eligible organization that is a provider sponsored network

within 90 days of receipt of the completed application, or

''(B) a State denies a licensing application and the Secretary determines that the State's licensing standards or review process create an unreasonable barrier to market entry,

the Secretary shall evaluate such application pursuant to the procedures established under paragraph (2).

''(2) FEDERAL CERTIFICATION PROCEDURES.—

''(A) IN GENERAL.—The Secretary shall establish a process for certification of an eligible organization that is a provider sponsored network) and its sponsor as meeting the requirements of this part in cases described in paragraph (1).

''(B) REQUIREMENTS.—Such process shall—

''(i) set forth the standards for certification,

''(ii) provide that final action will be taken on an application for certification within 120 business days of receipt of the completed application,

''(iii) provide that State law and regulations shall apply to the extent they have not been found to be an unreasonable barrier to market entry under paragraph (1)(A)(ii), and

''(iv) require any person receiving a certificate to provide the Secretary with all reasonable information in order to ensure compliance with the certification.

Not later then 5 business days after receipt of an application under this subsection, the Secretary shall notify the applicant as to whether the application includes all information necessary to process the application.is received by the Secretary.

''(C) EFFECT OF CERTIFICATIONS.—

''(i) IN GENERAL.—A certificate under this subsection shall be issued for not more than 36 months and may not be renewed, unless the Secretary determines that the State's laws and regulations provide an unreasonable barrier to market entry.

''(ii) COORDINATION WITH STATE.—A person receiving a certificate under this section shall continue to seek State licensure under paragraph (1) during the period the certificate is in effect.

''(D) STATE STANDARDS.—During the first 24 months after the issuance of the Federal rules relating to the Federal certification process established under this paragraph, a State may apply to the Secretary to demonstrate that the State's licensure standards and process are consistent with Federal standards, incorporate appropriate flexibility to reflect the deliver system of provider-sponsored networks, and do not present an unreasonable barrier to market entry. If the Secretary approves the State licensure standards and process under this subparagraph, a provider sponsored network in such a State shall be required to obtain State licenses (as well as meet all other applicable Federal standards).

''(3) REPORT.—Not later then December 31, 1999, the Secretary shall report to Congress on the Federal certification system under paragraph (2), including an analysis of State efforts to adopt licensing standards and review processes that take into account the fact that provider-sponsored networks provide services directly to enrollees through affiliated providers.''.

(b) CONFORMING AMENDMENTS.—

(1) TERMINATION OF SECTION 1876.—Section 1876 (42 U.S.C. 1395mm) is repealed.

(2) GME ADJUSTMENT.—Section 1886(h) (42 U.S.C. 1395ww(h)) is amended by inserting '', including all days attributable to patients enrolled in an eligible organization with a risk-sharing contract under part C'' after ''part A''.

(c) SUNSET.—No certificate shall be issued under this section after December 31, 2000, and no certificate under this section shall remain in effect after December 31, 2001.

''(2) EXCEPTION FOR IDENTICAL STANDARDS.—Paragraph (1) shall not apply with respect to any State law to the extent that such law provides the application of standards that are identical to the standards established for provider-sponsored organizations under this part.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974.

''PAYMENTS TO MEDICARE CHOICE ORGANIZATIONS

''SEC. 1855. (a) PAYMENTS.—

''(1) IN GENERAL.—Under a contract under section 1858 the Secretary shall pay to each Medicare Choice organization, with respect to coverage of an individual under this part in a payment area for a month, an amount equal to the monthly adjusted Medicare Choice capitation rate (as provided under subsection (b)) with respect to that individual for that area.

''(2) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

''(A) the annual Medicare Choice capitation rate for each payment area for the year, and

''(B) the factors to be used in adjusting such rates under subsection (b) for payments for months in that year.

''(3) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for notice to Medicare Choice organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

''(4) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (2) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that Medicare Choice organizations can compute monthly adjusted Medicare Choice capitation rates for classes of individuals located in each payment area which is in whole or in part within the service area of such an organization.

''(b) MONTHLY ADJUSTED MEDICARE CHOICE CAPITATION RATE.—

''(1) IN GENERAL.—For purposes of this section, the 'monthly adjusted Medicare Choice capitation rate' under this subsection, for a month in a year for an individual in a payment area (specified under paragraph (3)) and in a class (established under paragraph (4)), is 1/12 of the annual Medicare Choice capitation rate specified in paragraph (2) for that area for the year, adjusted to reflect the actuarial value of benefits under this title with respect to individuals in such class compared to the national average for individuals in all classes.

''(2) ANNUAL MEDICARE CHOICE CAPITATION RATES.—

''(A) IN GENERAL.—For purposes of this section, the annual Medicare Choice capitation rate for a payment area for a year is equal to the annual Medicare Choice capitation rate for the area for the previous year (or, in the case of 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for the area for 1995) increased by the per capita growth rate for that area and year (as determined under subsection (c)).

''(B) SPECIAL RULES FOR 1996.—

''(i) FLOOR AT 85 PERCENT OF NATIONAL AVERAGE.—In no case shall the annual Medicare Choice capitation rate for a payment area for 1996 be less than 85 percent of the national average of such rates for such year for all payment areas (weighted to reflect the number of medicare beneficiaries in each such area).

''(ii) REMOVAL OF MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—In determining the annual Medicare Choice capitation rate for 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for 1995 shall be determined as though the Secretary had excluded from such rate any amounts which the Secretary estimated would have been payable under this title during the year for—

''(I) payment adjustments under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients; and

''(II) the indirect costs of medical education under section 1886(d)(5)(B) or for direct graduate medical education costs under section 1886(h).

''(3) PAYMENT AREA DEFINED.—

''(A) IN GENERAL.—In this section, the term 'payment area' means—

''(i) a metropolitan statistical area, or

''(ii) all areas of a State outside of such an area.

''(B) SPECIAL RULE FOR ESRD BENEFICIARIES.—Such term means, in the case of the population group described in paragraph (5)(C), each State.

''(4) CLASSES.—

''(A) IN GENERAL.—For purposes of this section, the Secretary shall define appropriate classes of enrollees, consistent with paragraph (5), based on age, gender, welfare status, institutionalization, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

''(B) RESEARCH.—The Secretary shall conduct such research as may be necessary to provide for greater accuracy in the adjustment of capitation rates under this subsection. Such research may include research into the addition or modification of classes under subparagraph (A). The Secretary shall submit to Congress a report on such research by not later than January 1, 1997.

''(5) DIVISION OF MEDICARE POPULATION.—In carrying out paragraph (4) and this section, the Secretary shall recognize the following separate population groups:

''(A) AGED.—Individuals 65 years of age or older who are not described in subparagraph (C).

''(B) DISABLED.—Disabled individuals who are under 65 years of age and not described in subparagraph (C).

''(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Individuals who are determined to have end stage renal disease.

''(c) PER CAPITA GROWTH RATES.—

''(1) FOR 1996.—

''(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the per capita growth rates for 1996, for a payment area assigned to a service utilization cohort under subsection (d), shall be the following:

''(i) BELOW AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the below average service utilization cohort, 9.6 percent.

''(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the above average service utilization cohort, 4.8 percent.

''(iii) HIGHEST SERVICE UTILIZATION COHORT.—For areas assigned to the highest service utilization cohort, 2.1 percent.

''(B) BUDGET NEUTRAL ADJUSTMENT.—The Secretary shall adjust the per capita growth rates specified in subparagraph (A) for all the areas by such uniform factor as may be necessary to assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate, specified in paragraph (3) for 1996.

''(2) FOR SUBSEQUENT YEARS.—

''(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the Secretary shall compute a per capita growth rate for each year after 1996, for each payment area as assigned to a service utilization cohort under subsection (d), consistent with the following rules:

''(i) BELOW AVERAGE SERVICE UTILIZATION COHORT SET AT 143 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the below average service utilization cohort for the year shall be 160 percent of the national average per capita growth rate for the year (as specified under paragraph (3)).

''(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT SET AT 80 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the above average service utilization cohort for the year shall be 80 percent of the national average per capita growth rate for the year.

''(iii) HIGHEST SERVICE UTILIZATION COHORT SET AT 40 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the highest service utilization cohort for the year shall be 35 percent of the national average per capita growth rate for the year.

''(B) AVERAGE PER CAPITA GROWTH RATE AT NATIONAL AVERAGE TO ASSURE BUDGET NEUTRALITY.—The Secretary shall compute per capita growth rates for a year under subparagraph (A) in a manner so that the weighted average per capita growth rate for all areas for the year (weighted to reflect the number of medicare beneficiaries in each area) is equal to the national average per capita growth rate under paragraph (3) for the year.

''(3) NATIONAL AVERAGE PER CAPITA GROWTH RATES.—In this subsection, the 'national average per capita growth rate' for—

''(A) 1996 is 6.0 percent,

''(B) 1997 is 6.0 percent,

''(C) 1998 is 6.0 percent,

''(D) 1999 is 5.5 percent,

''(E) 2000 is 5.5 percent,

''(F) 2001 is 5.5 percent,

''(G) 2002 is 5.5 percent, and

''(H) each subsequent year is 5.5 percent.

''(d) ASSIGNMENT OF PAYMENT AREAS TO SERVICE UTILIZATION COHORTS.—

''(1) IN GENERAL.—For purposes of determining per capita growth rates under subsection (c) for areas for a year, the Secretary shall assign each payment area to a service utilization cohort (based on the service utilization index value for that area determined under paragraph (2)) as follows:

''(A) BELOW AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of less than 1.00 shall be assigned to the below average service utilization cohort.

''(B) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.00 but less than 1.20 shall be assigned to the above average service utilization cohort.

''(C) HIGHEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.20 shall be assigned to the highest service utilization cohort.

''(2) DETERMINATION OF SERVICE UTILIZATION INDEX VALUES.—In order to determine the per capita growth rate for a payment area for each year (beginning with 1996), the Secretary shall determine for such area and year a service utilization index value, which is equal to—

''(A) the annual Medicare Choice capitation rate under this section for the area for the year in which the determination is made (or, in the case of 1996, the average annual per capita rate of payment (described in section 1876(a)(1)(C)) for the area for 1995); divided by

''(B) the input-price-adjusted annual national Medicare Choice capitation rate (as determined under paragraph (3)) for that area for the year in which the determination is made.

''(3) DETERMINATION OF INPUT-PRICE-ADJUSTED RATES.—

''(A) IN GENERAL.—For purposes of paragraph (2), the 'input-price-adjusted annual national Medicare Choice capitation rate' for a payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type) of—

''(i) the national standardized Medicare Choice capitation rate (determined under subparagraph (B)) for the year,

''(ii) the proportion of such rate for the year which is attributable to such type of services, and

''(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

''(B) NATIONAL STANDARDIZED MEDICARE CHOICE CAPITATION RATE.—In this paragraph, the 'national standardized Medicare Choice capitation rate' for a year is equal to—

''(i) the sum (for all payment areas) of the product of (I) the annual Medicare Choice capitation rate for that year for the area under subsection (b)(2), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by

''(ii) the total average number of medicare beneficiaries residing in all the payment areas for that year.

''(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—

''(i) medicare services shall be divided into 2 types of services: part A services and part B services;

''(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

''(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and

''(II) for part B services, 100 percent minus the ratio described in subclause (I);

''(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

''(iv) for part B services—

''(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

''(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);

''(v) the index values shall be computed based only on the beneficiary population described in subsection (b)(5)(A).

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

''(e) PAYMENT PROCESS.—

''(1) IN GENERAL.—Subject to section 1859(f), the Secretary shall make monthly payments under this section in advance and in accordance with the rate determined under subsection (a) to the plan for each individual enrolled with a Medicare Choice organization under this part.

''(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

''(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

''(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a Medicare Choice organization under a product operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

''(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1853(a) at the time the individual enrolled with the organization.

''(f) PAYMENTS FROM TRUST FUND.—The payment to a Medicare Choice organization under this section for individuals enrolled under this part with the organization, and payments to a Medicare Choice MSA under subsection (f)(1)(B), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.

''(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

''(1) election under this part of a Medicare Choice product offered by a Medicare Choice organization—

''(A) payment for such services until the date of the individual's discharge shall be made under this title through the Medicare Choice product or Non-Medicare Choice option (as the case may be) elected before the election with such organization,

''(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

''(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

''(2) termination of election with respect to a Medicare Choice organization under this part—

''(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

''(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding Medicare Choice organization, and

''(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

''ESTABLISHMENT OF STANDARDS FOR MEDICARE CHOICE ORGANIZATIONS AND PRODUCTS

''SEC. 1856. (a) INTERIM STANDARDS.—

''(1) IN GENERAL.—The Secretary shall issue regulations regarding standards for Medicare Choice organizations and products within 180 days after the date of the enactment of this section. Such regulations shall be issued on an interim basis, but shall become effective upon publication and shall be effective through the end of 1999.

''(2) SOLICITATION OF VIEWS.—In developing standards under this subsection relating to solvency of Medicare Choice organizations, the Secretary shall solicit the views of the American Academy of Actuaries.

''(3) EFFECT ON STATE REGULATIONS.—Regulations under this subsection shall not preempt State regulations for Medicare Choice organizations for products not offered under this part.

''(b) PERMANENT STANDARDS.—

''(1) IN GENERAL.—The Secretary shall develop permanent standards under this subsection.

''(2) CONSULTATION.—In developing standards under this subsection, the Secretary shall consult with the National Association of Insurance Commissioners, associations representing the various types of Medicare Choice organizations, and medicare beneficiaries.

''(3) EFFECTIVENESS.—The standards under this subsection shall take effect for periods beginning on or after January 1, 2000.

''(c) SOLVENCY.—In establishing interim and permanent standards under this section relating to solvency of organizations, the Secretary shall recognize the multiple means of demonstrating solvency, including—

''(1) reinsurance purchased through a recognized commerce company or through a capitive company owned directly or indirectly by 3 or more provider-sponsored organizations,

''(2) unrestricted surplus,

''(3) guarantees, and

''(4) letters of credit

In such standards, the Secretary may treat as admitted assets the assets used by a provider-sponsored organization in delivering covered services.

''(d) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a Medicare Choice organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

''(e) RELATION TO STATE LAWS.—The standards established under this section shall supersede any State law. The standard or regulation with respect to Medicare Choice products which are offered by Medicare Choice organizations and are issued by organizations to which section 1851(b)(1) applies, to the extent such law or regulation is inconsistent with such standards.

''MEDICARE CHOICE CERTIFICATION

''SEC. 1857. (a) IN GENERAL.—

''(1) ESTABLISHMENT.—The Secretary shall establish a process for the certification of organizations and products offered by organizations as meeting the applicable standards for Medicare Choice organizations and Medicare Choice products established under section 1856.

''(2) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

''(3) USE OF PRIVATE ACCREDITATION PROCESSES.—

''(A) IN GENERAL.—The process under this subsection shall, to the maximum extent practicable, provide that Medicare Choice organizations and products that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or product.

''(B) PERIODIC ACCREDITATION.—The use of an accreditation under subparagraph (A) shall be valid only for such period as the Secretary specifies.

''(4) USER FEES.—The Secretary may impose user fees on entities seeking certification under this subsection in such amounts as the Secretary deems sufficient to finance the costs of such certification.

''(b) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a Medicare Choice organization or product is decertified under this section, the organization shall notify each enrollee with the organization and product under this part of such decertification.

''(c) QUALIFIED ASSOCIATIONS.—In the case of Medicare Choice products offered by a Medicare Choice organization that is a qualified association (as defined in section 1854(c)(4)(C)) and issued by an organization to which section 1851(b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)), nothing in this section shall be construed as limiting the authority of States to regulate such products.

''CONTRACTS WITH MEDICARE CHOICE ORGANIZATIONS

''SEC. 1858. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of a Medicare Choice product offered by a Medicare Choice organization under this part, and no payment shall be made under section 1856 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such product. Such a contract with an organization may cover more than one Medicare Choice product. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

''(b) ENROLLMENT REQUIREMENTS.—

''(A) MINIMUM ENROLLMENT REQUIREMENT.—Subject to subparagraphs (B) and (C), the Secretary may not enter into a contract under this section with a Medicare Choice organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

''(B) ALLOWING TRANSITION.—The Secretary may waive the requirement of subparagraph (A) during the first 3 contract years with respect to an organization.

''(C) TREATMENT OF AREAS WITH LOW MANAGED CARE PENETRATION.—The Secretary may waive the requirement of subparagraph (A) in the case of organizations operating in areas in which there is a low proportion of medicare beneficiaries who have made the Medicare Choice election.

''(2) REQUIREMENT FOR ENROLLMENT OF NON-MEDICARE BENEFICIARIES.—

''(A) IN GENERAL.—Each Medicare Choice organization with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) an organization that has been certified by a national organization recognized by the Secretary and has been found to have met performance standards established by the Secretary for at least 2 years, or

''(ii) a provider-sponsored organization for which commercial payments to providers participating in the organization exceed the payments to the organization under this part.

''(C) MODIFICATION AND WAIVER.—The Secretary may modify or waive the requirement imposed by subparagraph (A)—

''(i) to the extent that more than 50 percent of the population of the area served by the organization consists of individuals who are entitled to benefits under this title or under a State plan approved under title XIX, or

''(ii) in the case of an organization that is owned and operated by a governmental entity, only with respect to a period of three years beginning on the date the organization first enters into a contract under this section, and only if the organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

''(D) ENFORCEMENT.—If the Secretary determines that an organization has failed to comply with the requirements of this paragraph, the Secretary may provide for the suspension of enrollment of individuals under this part or of payment to the organization under this part for individuals newly enrolled with the organization, after the date the Secretary notifies the organization of such noncompliance.

''(c) CONTRACT PERIOD AND EFFECTIVENESS.—

''(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

''(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the Medicare Choice organization if the Secretary determines that the organization—

''(A) has failed substantially to carry out the contract;

''(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part;

''(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

''(D) no longer substantially meets the applicable conditions of this part.

''(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract.

''(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a Medicare Choice organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

''(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

''(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

''(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

''(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

''(B) shall have the right to audit and inspect any books and records of the Medicare Choice organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

''(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

''(3) DISCLOSURE.—

''(A) IN GENERAL.—Each Medicare Choice organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

''(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

''(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

''(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

''(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

''(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

''(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

''(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

''(i) any director, officer, partner, or employee responsible for management or administration of a Medicare Choice organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a Medicare Choice organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

''(ii) any entity in which a person described in clause (i)—

''(I) is an officer or director;

''(II) is a partner (if such entity is organized as a partnership);

''(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

''(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

''(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

''(iv) any spouse, child, or parent of an individual described in clause (i).

''(C) ACCESS TO INFORMATION.—Each Medicare Choice organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

''(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

''(f) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

''(g) INTERMEDIATE SANCTIONS.—

''(1) IN GENERAL.—If the Secretary determines that a Medicare Choice organization with a contract under this section—

''(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

''(B) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

''(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

''(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

''(E) misrepresents or falsifies information that is furnished—

''(i) to the Secretary under this part, or

''(ii) to an individual or to any other entity under this part;

''(F) fails to comply with the requirements of section 1852(f)(3); or

''(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

''(2) REMEDIES.—The remedies described in this paragraph are—

''(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

''(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

''(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a Medicare Choice organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

''(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

''(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

''(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

''(4) PROCEDURES FOR IMPOSING SANCTIONS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

''(h) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a Medicare Choice organization under this section or may impose the intermediate sanctions described in subsection (g)

on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(1) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

''(2) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

''(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

''(4) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

SEC. 8003. REPORTS.

(a) ALTERNATIVE PAYMENT APPROACHES.—By not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this title referred to as the ''Secretary'') shall submit to Congress a report on alternative provider payment approaches under the medicare program, including—

(1) combined hospital and physician payments per admission,

(2) partial capitation models for subsets of medicare benefits, and

(3) risk-sharing arrangements in which the Secretary defines the risk corridor and shares in gains and losses.

Such report shall include recommendations for implementing and testing such approaches and legislation that may be required to implement and test such approaches.

(b) COVERAGE OF RETIRED WORKERS.—

(1) IN GENERAL.—The Secretary shall work with employers and health benefit plans to develop standards and payment methodologies to allow retired workers to continue to participate in employer health plans instead of participating in the medicare program. Such standards shall also cover workers covered under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the development of such standards and payment methodologies. The report shall include recommendations relating to such legislation as may be necessary.

SEC. 8004. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) TRANSITION FROM CURRENT CONTRACTS.—

(1) LIMITATION ON NEW CONTRACTS.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall not enter into any risk-sharing or cost reimbursement contract under section 1876 of the Social Security Act with an eligible organization for any contract year beginning on or after the date standards for Medicare Choice organizations and products are first established under section 1856(a) of such Act with respect to Medicare Choice organizations that are insurers or health maintenance organizations unless such a contract had been in effect under section 1876 of such Act for the organization for the previous contract year.

(2) TERMINATION OF CURRENT CONTRACTS.—

(A) RISK-SHARING CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall not extend or continue any risk-sharing contract with an eligible organization under section 1876 of the Social Security Act (for which a contract was entered into consistent with paragraph (1)(A)) for any contract year beginning on or after 1 year after the date standards described in paragraph (1)(A) are established.

(B) COST REIMBURSEMENT CONTRACTS.—The Secretary shall not extend or continue any reasonable cost reimbursement contract with an eligible organization under section 1876 of the Social Security Act for any contract year beginning on or after January 1, 1998.

(b) CONFORMING PAYMENT RATES UNDER RISK-SHARING CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under risk-sharing contracts under section 1876(a) of the Social Security Act for months in a year (beginning with January 1996) shall be computed—

(1) with respect to individuals entitled to benefits under both parts A and B of title XVIII of such Act, by substituting payment rates under section 1855(a) of such Act for the payment rates otherwise established under section 1876(a) of such Act, and

(2) with respect to individuals only entitled to benefits under part B of such title, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under such title attributable to such part) for the payment rates otherwise established under section 1876(a) of such Act.

For purposes of carrying out this paragraph for payment for months in 1996, the Secretary shall compute, announce, and apply the payment rates under section 1855(a) of such Act (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made not in accordance with such rates.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

SEC. 8151. MODIFICATION OF PAYMENT AREAS USED TO DETERMINE PAYMENTS FOR PHYSICIANS' SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1848(j)(2) (42 U.S.C. 1395w@4(j)(2)) is amended to read as follows:

''(2) FEE SCHEDULE AREA.—

''(A) GENERAL RULE.—Except as provided in subparagraph (B), the term 'fee schedule area' means, with respect to physicians' services furnished in a State, the State.

''(B) EXCEPTION FOR STATES WITH HIGHEST VARIATION AMONG AREAS.—In the case of the 15 States with the greatest variation in cost associated with physicians' services among various geographic areas of the State (as determined by the Secretary in accordance with such standards as the Secretary considers appropriate), the fee schedule area applicable with respect to physicians' services furnished in the State shall be a locality used under section 1842(b) for purposes of computing payment amounts for physicians' services, except that the Secretary shall revise the localities used under such section so that there are no more than 5 such localities in any State.''.

(b) BUDGET-NEUTRALITY REQUIREMENT.—The Secretary of Health and Human Services shall carry out the amendment made by subsection (a) in a manner which ensures that the aggregate amount of payment made for physicians' services under part B of the medicare program in any year does not exceed the aggregate amount of payment which would have been made for such services under part B during the year if the amendment were not in effect.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to physicians' services furnished on or after January 1, 1997.

Subtitle C—Medicare Payments to Health Care Providers

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

SEC. 8201. ONE-YEAR FREEZE IN PAYMENTS TO PROVIDERS.

(a) FREEZE IN UPDATES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, except as otherwise provided in paragraph (2), for purposes of determining the amount to paid for an item or service under title XVIII of the Social Security Act, the percentage increase in any economic index by which a payment amount under title XVIII of the Social Security Act is required to be increased during fiscal year 1996 shall be deemed to be zero.

(2) EXCEPTIONS.—Paragraph (1) shall not apply—

(A) to payments for the operating costs of inpatient hospital services of a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act); or

(B) to the determination of hospital-specific FTE resident amounts unde section 1886(h) of such Act.

(b) ECONOMIC INDEX.— The term ''economic index'' includes—

(1) the hospital market basket index (described in section 1886(b)(3)(B)(iii) of the Social Security Act),

(2) the medicare economic index (referred to in the fourth sentence of section 1842(b)(3) of such Act),

(3) the consumer price index for all urban consumers (U.S. city average), and

(4) any other index used to adjust payment amounts under title XVIII of such Act.

(c) EXTENSION OF PAYMENT FREEZE FOR SNFS AND HHAS.—

(1) SKILLED NURSING FACILITIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13503(a)(1) of OBRA–1993 is amended by striking ''1994 and 1995'' and inserting ''1994, 1995, and 1996''.

(B) DELAY IN UPDATES; NO CATCH UP.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended—

(i) by striking ''1995'' and inserting ''1996'', and

(ii) by striking ''subsection.'' and inserting ''subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during cost reporting periods which began during fiscal year 1994, 1995, or 1996).''.

(C) PROSPECTIVE PAYMENTS.—Section 13505(b) of OBRA–1993 is amended by striking ''fiscal years 1994 and 1995'' and inserting ''fiscal years 1994, 1995, and 1996''.

(2) HOME HEALTH AGENCIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13564(a)(1) of OBRA–1993 is amended by striking ''1996'' and inserting ''1997''.

(B) DELAY IN UPDATES; NO CATCH UP.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended—

(i) by striking ''1996'' and inserting ''1997'', and

(ii) by adding at the end the following: ''In establishing limits under this subparagraph, the Secretary may not take into account any changes in the routine service costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1,1997.''.

PART 2—PROVISIONS AFFECTING DOCTORS

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $36.40 for all physicians' services.''

(c) ESTABLISHING UPPER LIMIT ON MVPS REWARDS.—

(1) IN GENERAL.—Clause (iii) of section 1848(d)(3)(B), as redesignated by subsection (b)(1)(B), is amended by striking ''a decrease'' and inserting ''an increase or decrease''.

(2) EFFECTIVE DATE.—The amendment made by paragraph

(1) shall apply to physicians' services furnished on or after January 1, 1996.

SEC. 8212. USE OF REAL GDP TO ADJUST FOR VOLUME AND INTENSITY.

Section 1848(f)(2)(B)(iii) (42 U.S.C. 1395w-4(f)(2)(iii), as added by section 8211(a)(2)(C), is amended to read as follows:

''(iii) 1 plus the average per capita growth in the real gross domestic product (divided by 100) for the 5-fiscal-year period ending with the previous fiscal year (increased by 1.5 percentage points for the category of services consisting of primary care services), and''.

PART 3—PARVISIONS AFFECTING HOSPITALS

SEC. 8221. REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—Seciton 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by amending subclause (XII) to read as follows:

(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals in a rural area, and the market basket percentage increase minus 1.5 percentage points for all other hospitals, and''; and

(2) in subclause (XIII), by striking ''1998'' and inserting ''2003''.

(b) PPS–EXEMPT HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking ''thorugh 1997'' and inserting ''through 1996'', and

(ii) by striking ''and'' at the end;

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V) the following new subclause;

''(VI) fiscal years 1997 through 2002, is the market basket percentage increase minus 1.0 percentage point, and''.

(2) CONFORMING AMENDMENT.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking clause (v).

SEC. 8222. ELIMINATION OF FORMULA–DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395(i)(3)(b)(i)(II) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following. '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 13951(n)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and increase for all physicians' services for a fiscal year beginning with fiscal year 1996 shall be equal to the performance standard rate of increase determined under this paragraph for the previous fiscal year, increased by the product of—

''(i) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians services under this part for portions of calendar years included in the fiscal year involved,

''(ii) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in the average number of individuals enrolled under this part (other than HMO enrollees) from the previous fiscal year to the fiscal year involved,

''(iii) 1 plus the Secretary's estimate of the average annual percentage growth (divided by 100) in volume and intensity of all physicians' services under this part for the 5-fiscal-year- period ending with the preceding fiscal year, and

''(iv) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) that are estimated to result from changes in law or regulations affecting the percentage increase described in clause (i) and that is not taken into account in the percentage increase described in clause (i) minus 1, multiplied by 100, and reduced by the performance standard factor (specified in subparagraph (C)).''.

(b) ANNUAL UPDATE BASED ON CUMULATIVE PERFORMANCE.—

(1) IN GENERAL.—Section 1848(d)(3)(B) (42 U.S.C. 1395w-4(d)(3)(B)) is amended—

(A) in clause (i)—

(i) by striking ''IN GENERAL.—'' and inserting ''For 1992 through 1995'',

(ii) by striking ''for a year'' and inserting ''for each of the years 1992 through 1995'', and

(iii) by striking '', subject to clause (ii),'' and inserting ''subject to clause (iii),'';

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

''(ii) YEARS BEGINNING AFTER 1996.—

''(I) IN GENERAL.—The update for all physicians'' services for a year beginning after 1996 provided under subparagraph (A) shall, subject to clause (iii), be increased or decreased by the same percentage by which the cumulative percentage increase in actual expenditures for all physicians' services in the second previous fiscal year over the third previous fiscal year, was less or greater, respectively, than the performance standard rate of increase (established under subsection (f)) for such services for the second previous fiscal year.

''(II) CUMULATIVE PERCENTAGE INCREASE DEFINED.—In subclause (I), the 'cumulative percentage increase in actual expenditures' for a year shall be equal to the product of the adjusted increases for each year beginning with 1995 up to and including the year involved, minus 1 and multiplied by 100. In the previous sentence, the 'adjusted increase' for a year is equal to 1 plus the percentage increase in actual expenditures for the year (over the preceding year).''.

(3) ESTABLISHMENT OF CONVERSION FACTOR FOR 1996.— Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is amended—

(1) the hospital market basket index (described in section 1886(b)(3)(B)(iii) of the Social Security Act),

(2) the medicare economic index (referred to in the fourth sentence of section 1842(b)(3) of such Act),

(3) the consumer price index for all urban consumers (U.S. city average), and

(4) any other index used to adjust payment amounts under title XVIII of such Act.

(c) EXTENSION OF PAYMENT FREEZE FOR SNFS AND HHAS.—

(1) SKILLED NURSING FACILITIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13503(a)(1) of OBRA—1993 is amended by striking ''1994 and 1995'' and inserting ''1994, 1995, and 1996''.

(B) DELAY IN UPDATES; NO CATCH UP.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended—

(i) by striking ''1995'' and inserting ''1996'', and

(ii) by striking ''subsection.'' and inserting ''subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during cost reporting periods which began during fiscal year 1994, 1995, or 1996).''.

(C) PROSPECTIVE PAYMENTS.—Section 13505(b) of OBRA–1993 is amended by striking ''fiscal years 1994 and 1995'' and inserting ''fiscal years 1994, 1995, and 1996''.

(2) HOME HEALTH AGENCIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13564(a)(1) of OBRA–1993 is amended by striking ''1996'' and inserting ''1997''.

(B) DELAY IN UPDATES; NO CATCH UP.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii) is amended—

(i) by striking ''1996'' and inserting ''1997'', and

(ii) by adding at the end the following: ''In establishing limits under this subparagraph, the Secretary may not take into account any changes in the routine service costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1997.''.

PART 2—PROVISIONS AFFECTING DOCTORS

SEC. 8211. UPDATING FEES FOR PHYSICIANS' SERVICES.

(a) ESTABLISHMENT OF SINGLE, CUMULATIVE MVPS.—Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended—

(1) in subparagraphs (A) and (C) of paragraph (1), by striking ''rates of increase for all physicians' services and for each category of such services'' each place it appears and inserting ''rate of increase for all physicians' services (and, in the case of fiscal years beginning before fiscal year 1996, for each category of such services)''; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking ''IN GENERAL.—'' and inserting ''FISCAL YEARS 1991 THROUGH 1995.—''

(ii) in the matter preceding clause (i), by striking ''a fiscal year (beginning with fiscal year 1991)'' and inserting ''fiscal years 1991 through 1995'', and

(iii) in the matter following clause (iv), by striking ''subparagraph (B)) and inserting ''subparagraph (C))'',

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), and

(C) by inserting after subparagraph (A) the following:

''(B) FISCAL YEAR 1996 AND THEREAFTER.—Unless Congress otherwise provides, the performance standard rate of

PART 3—PROVISIONS AFFECTING HOSPITALS

SEC. 8221. REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by amending subclause (XII) to read as follows:

''(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals in a rural area, and the market basket percentage increase minus 1.5 percentage points for all other hospitals, and''; and

(2) in subclause (XIII), by striking ''1998'' and inserting ''2003''.

(b) PPS-EXEMPT HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking ''thorugh 1997'' and inserting ''through 1996'', and

(ii) by striking ''and'' at the end;

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V) the following new subclause:

''(VI) fiscal years 1997 through 2002, is the market basket percentage increase minus 1.0 percentage point, and''.

(2) CONFORMING AMENDMENT.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking clause (v).

SEC. 8222. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after July 1, 1994.

SEC. 8223. ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM FOR OUTPATIENT SERVICES.

(a) IN GENERAL.—Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended by striking ''section 1886)—'' and all that follows and inserting the following: ''section 1886), an amount equal to a prospectively determined payment rate established by the Secretary that provides for payments for such items and services to be based upon a national rate adjusted to take into account the relative costs of furnishing such items and services in various geographic areas, except that for items and services furnished during cost reporting periods (or portions thereof) in years beginning with 1996, such amount shall be equal to 95 percent of the amount that would otherwise have been determined;''.

(b) ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM.—Not later than July 1, 1995, the Secretary of Health and Human Services shall establish the prospective payment system for hospital outpatient services necessary to carry out section 1833(a)(2)(B) of the Social Security Act (as amended by subsection (a)).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 1997.

SEC. 8224. REDUCTION IN MEDICARE PAYMENTS TO HOSPITALS FOR INPATIENT CAPITAL-RELATED COSTS.

(a) PPS HOSPITALS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by striking ''1995'' and inserting ''2002''.

(b) PPS-EXEMPT HOSPITALS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following:

''(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 10 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal year 1996 through 2002.''.

SEC. 8225. MORATORIUM ON PPS EXEMPTION FOR LONG-TERM CARE HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) is amended by striking ''Secretary)'' and inserting ''Secretary on or before September 30, 1995)''.

(b) RECOMMENDATIONS ON APPROPRIATE STANDARDS FOR LONG-TERM CARE HOSPITALS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress recommendations for modifications to the standards used by the Secretary to determine whether a hospital (including a distinct part of another hospital) is classified as a long-term care hospital for purposes of determining the amount of payment to the hospital under part A of the medicare program for the operating costs of inpatient hospital services.

PART 4—PROVISIONS AFFECTING OTHER PROVIDERS

SEC. 8231. REVISION OF PAYMENT METHODOLOGY FOR HOME HEALTH SERVICES.

(a) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

''(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

''(I) costs determined under the preceding provisions of this subparagraph, or

''(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including non-routine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of Medicare patients for the year subject to the limitation. The limitation shall represent total Medicare reasonable costs divided by the unduplicated census count of Medicare patients.

''(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

''(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

''(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitation shall be pro-rated among agencies.

''(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate Medicare reasonable cost in a year.

''(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.''.

(b) USE OF INTERIM FINAL REGULATIONS.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(c) STUDIES.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.

(d) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Title XVIII is amended by adding at the end the following new section:

''PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

''SEC. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

''(b) Such a system shall include the following:

''(1) Per episode rates under the system shall be 15 percent less than those that would otherwise occur under fiscal year 2000 Medicare expenditures for home health services.

''(2) All services covered and paid on a reasonable cost basis under the Medicare home health benefit as of the date of the enactment of the Medicare Enhancement Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode the use of services and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

''(c) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

''(d) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

''(e) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.

''(f) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to, or receive services from, another home health agency within an episode period, the episode payment shall be pro-rated between home health agencies.''.

SEC. 8232. LIMITATION OF HOME HEALTH COVERAGE UNDER PART A.

(a) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the semicolon and inserting ''for up to 150 days during any spell of illness;''.

(b) CONFORMING AMENDMENT.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(1) by striking ''or'' at the end of paragraph (2),

(2) by striking the period at the end of paragraph (3) and inserting ''; or'', and

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

''(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 150 days during such spell.''.

(c) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(1) in the second sentence of paragraph (1), by striking ''enrollees.'' and inserting ''enrollees (except as provided in paragraph (5)).''; and

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

''(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).''.

(d) EFFECTIVE DATE.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

SEC. 8233. REDUCTION IN FEE SCHEDULE FOR DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking ''a subsequent year'' and inserting ''1993, 1994, and 1995'', and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) for each of the years 1996 through 2002, 0 percent; and

''(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.''.

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking ''1994 and 1995'' and inserting ''each of the years 1994 through 1999''.

(b) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking ''and'' at the end of clause (iii);

(2) in clause (iv)—

(A) by striking ''a subsequent year'' and inserting ''1993, 1994, and 1995'', and

(B) by striking the period at the end and inserting ''; and''; and

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

''(v) in 1996 and each subsequent year, is 90 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year.''.

SEC. 8234. NURSING HOME BILLING.

(a) PAYMENTS FOR ROUTINE SERVICE COSTS.—

(1) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

''(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment limits under section 1888A.''.

(2) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting ''AND CERTAIN ANCILLARY'' after ''SERVICE''.

(b) INCENTIVES FOR COST EFFECTIVE MANAGEMENT OF COVERED NONROUTINE SERVICES.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following new section:

''INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

''SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

''(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

''(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

''(B) Prescription drugs.

''(C) Complex medical equipment.

''(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

''(E) Radiation therapy.

''(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

''(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to the percentage increase in routine service cost limits for the year under section 1888(a).

''(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title to the individual during the individual's spell of illness.

''(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES.—

''(1) IN GENERAL.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during a cost reporting period beginning during a fiscal year (after fiscal year 1996) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period limit determined under subsection (c)(1)(B).

''(2) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

''(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

''(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

''(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

''(c) RECONCILIATION OF AMOUNTS.—

''(1) LIMIT BASED ON PER STAY LIMIT AND NUMBER OF STAYS.—

''(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

''(B) COST REPORTING PERIOD LIMIT.—The cost reporting period limit determined under this subparagraph is an amount equal to the product of—

''(i) the per stay limit applicable to the facility under subsection (d) for the period; and

''(ii) the number of stays beginning during the period for which payment was made to the facility for such services.

''(C) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

''(2) INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in an amount that is less than the amount determined under paragraph (1)(B), the Secretary shall pay the skilled nursing facility in the following fiscal year an incentive payment equal to 50 percent of the difference between such amounts, except that the incentive payment may not exceed 5 percent of the aggregate payments made to the facility under subsection (b) for the previous fiscal year (without regard to subparagraph (B)).

''(B) INSTALLMENT INCENTIVE PAYMENTS.—The Secretary may make installment payments during a fiscal year to a skilled nursing facility based on the estimated incentive

payment that the facility would be eligible to receive with respect to such fiscal year.

''(d) DETERMINATION OF FACILITY PER STAY LIMIT.—

''(1) LIMIT FOR FISCAL YEAR 1997.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall establish separate per stay limits for hospital-based and freestanding skilled nursing facilities for the 12-month cost reporting period beginning during fiscal year 1997 that are equal to the sum of—

''(i) 50 percent of the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997; and

''(ii) 50 percent of the average of all facility-specific stay amounts for all hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period described in clause (i), increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997.

''(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay limit for the 12-month cost reporting period beginning during fiscal year 1997 shall be twice the amount determined under subparagraph (A)(ii).

''(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after fiscal year 1997 is equal to the per stay limit established under this subsection for the 12-month cost reporting period beginning during the previous fiscal year, increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

''(3) REBASING OF AMOUNTS.—

''(A) IN GENERAL.—The Secretary shall provide for an update to the facility-specific amounts used to determine the per stay limits under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter.

''(B) TREATMENT OF FACILITIES NOT HAVING REBASED COST REPORTING PERIODS.—Paragraph (1)(B) shall apply with respect to a skilled nursing facility for which payments were not made under this title for covered non-routine services for the 12-month cost reporting period used by the Secretary to update facility-specific amounts under subparagraph (A) in the same manner as such paragraph applies with respect to a facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994.

''(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is the sum of—

''(1) the average amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay (as determined on a per diem basis); and

''(2) the Secretary's best estimate of the average amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary.

''(f) INTENSIVE NURSING OR THERAPY NEEDS.—

''(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period beginning during a fiscal year (beginning with fiscal years after fiscal year 1997) to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay limit for such resident shall be the per stay limit developed under paragraph (2) instead of the per stay limit determined under subsection (d)(1)(A).

''(2) PER STAY LIMIT FOR INTENSIVE NEED RESIDENTS.—Not later than June 30, 1997, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a per stay limit for residents of a skilled nursing facility who require intensive nursing or therapy services.

''(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

''(g) SPECIAL TREATMENT FOR SMALL SKILLED NURSING FACILITIES.—This section shall not apply with respect to a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

''(h) EXCEPTIONS AND ADJUSTMENTS TO LIMITS.—

''(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting limits applicable to a skilled nursing facility under subsection (c)(1)(B) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

''(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

''(i) SPECIAL RULE FOR X-RAY SERVICES.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.''.

(2) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking ''1813 and 1886'' and inserting ''1813, 1886, 1888, and 1888A''.

SEC. 8235. FREEZE IN PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking ''1994 and 1995'' and inserting ''1994 through 1999''.

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

SEC. 8241. TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.

(a) TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding at the end the following title:

''TITLE XXI—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

''PART A—ESTABLISHMENT OF FUND

''SEC. 2101. ESTABLISHMENT OF FUND.

''(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts transferred to the Fund under subsection (c), amounts appropriated to the Fund pursuant to subsections (d) and (e)(3), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

''(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2111.

''(c) TRANSFERS TO FUND.—

''(1) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1996 and each subsequent fiscal year, transfer to the Fund an amount determined by the Secretary for the fiscal year involved in accordance with paragraph (2).

''(2) DETERMINATION OF AMOUNTS.—For purposes of paragraph (1), the amount determined under this paragraph for a fiscal year is an estimate by the Secretary of an amount equal to 75 percent of the difference between—

''(A) the nationwide total of the amounts that would have been paid under sections 1855 and 1876 during the year but for the operation of section 1855(b)(2)(B)(ii); and

''(B) the nationwide total of the amounts paid under such sections during the year.

''(3) ALLOCATION BETWEEN MEDICARE TRUST FUNDS.—In providing for a transfer under paragraph (1) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B of title XVIII (and the trust funds established under the respective parts) as reasonably reflects the proportion of payments for the indirect costs of medical education and direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary for each of the fiscal years 1996 through 2002.

''(e) INVESTMENT.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

''(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United

States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

''PART B—PAYMENTS TO TEACHING HOSPITALS

"SEC. 2111. FORMULA PAYMENTS TO TEACHING HOSPITALS.

''(a) IN GENERAL.—In the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1996 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and shall be made in accordance with a formula established by the Secretary.

''(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.''.

(b) NATIONAL ADVISORY COUNCIL ON POSTGRADUATE MEDICAL EDUCATION.—

(1) IN GENERAL.—There is established within the Department of Health and Human Services an advisory council to be known as the National Advisory Council on Postgraduate Medical Education (in this title referred to as the ''Council'').

(2) DUTIES.—The council shall provide advice to the Secretary on appropriate policies for making payments for the support of postgraduate medical education in order to assure an adequate supply of physicians trained in various specialities, consistent with the health care needs of the United States.

(3) COMPOSITION.—

(A) IN GENERAL.—The Secretary shall appoint to the Council 15 individuals who are not officers or employees of the United States. Such individuals shall include not less than 1 individual from each of the following categories of individuals or entities:

(i) Organizations representing consumers of health care services.

(ii) Physicians who are faculty members of medical schools, or who supervise approved physician training programs.

(iii) Physicians in private practice who are not physicians described in clause (ii).

(iv) Practitioners in public health.

(v) Advanced-practice nurses.

(vi) Other health professionals who are not physicians.

(vii) Medical schools.

(viii) Teaching hospitals.

(ix) The Accreditation Council on Graduate Medical Education.

(x) The American Board of Medical Specialities.

(xi) The Council on Postdoctoral Training of the American Osteopathic Association.

(xii) The Council on Podiatric Medical Education of the American Podiatric Medical Association.

(B) REQUIREMENTS REGARDING REPRESENTATIVE MEMBERSHIP.—To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States, shall reflect the racial, ethnic, and gender composition of the population of the United States, and shall be broadly representative of medical schools and teaching hospitals in the United States.

(C) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary (or by other Federal officers who are appointed by the President with the advice and consent of the Senate). Individuals designated under the preceding sentence shall include each of the following officials (or a designee of the official):

(i) The Secretary of Health and Human Services.

(ii) The Secretary of Veterans Affairs.

(iii) The Secretary of Defense.

(4) CHAIR.—The Secretary shall, from among members of the council appointed under paragraph (3)(A), designate an individual to serve as the chair of the council.

(5) TERMINATION.—The Council terminates December 31, 1999.

(c) REMOVE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—For provision removing medical education and disproportionate share hospital payments from calculation of payment amounts for organizations paid on a capitated basis, see section 1855(b)(2)(B)(ii).

(2) PAYMENTS TO HOSPITALS OF AMOUNTS ATTRIBUTABLE TO DSH.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(j)(1) In addition to amounts paid under subsection (d)(5)(F), the Secretary is authorized to pay hospitals which are eligible for such payments for a fiscal year supplemental amounts that do not exceed the limit provided for in paragraph (2).

''(2) The sum of the aggregate amounts paid pursuant to paragraph (1) for a fiscal year shall not exceed the Secretary's estimate of 75 percent of the amount of reductions in payments under section 1855 that are attributable to the operation of subsection (b)(2)(B)(ii) of such section. ''.

SEC. 8242. REDUCTION IN PAYMENT ADJUSTMENTS FOR INDIRECT MEDICAL EDUCATION.

(a) MODIFICATION REGARDING 6.8 PERCENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) by striking ''on or after October 1, 1988,'' and inserting ''on or after October 1, 1999,''; and

(2) by striking ''1.89'' and inserting ''1.68''.

(b) SPECIAL RULE REGARDING FISCAL YEARS 1996 THROUGH 1998; MODIFICATION REGARDING 6 PERCENT .—Section 1886(d)(5)(B)(ii), as amended by paragraph (1), is amended by adding at the end the following: ''In the case of discharges occurring on or after October 1, 1995, and before October 1, 1999, the preceding sentence applies to the same extent and in the same manner as the sentence applies to discharges occurring on or after October 1, 1999, except that the term '1.68' is deemed to be 1.48.''.

Subtitle D—Provisions Relating to Medicare Beneficiaries

SEC. 8301. PART B PREMIUM.

(a) FREEZE IN PREMIUM FOR 1996.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking ''December 1995'' and inserting ''December 1996''; and

(2) in subparagraph (B)(v), by striking ''1995'' and inserting ''1995 and 1996''.

(b) ESTABLISHING PREMIUM AT 25 Percent of Program Costs Through 2002.—Section 1839(e)(1)(A) (42 U.S.C. 1395r(e)(1)(A)) is amended by striking ''January 1999'' and inserting ''January 2003''.

SEC. 8302. FULL COST OF MEDICARE PART B COVERAGE PAYABLE BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

''PART VIII—SUPPLEMENTAL MEDICARE PART B PREMIUMS FOR HIGH-INCOME INDIVIDUALS

"SEC. 59B. SUPPLEMENTAL MEDICARE PART B PREMIUM.

''(a) REQUIREMENT TO PAY PREMIUM.—In the case of an individual to whom this section applies for the taxable year, there is hereby imposed (in addition to any other amount imposed by this subtitle) an amount equal to the aggregate of the supplemental Medicare part B premiums (if any) for months during such year that such individual is covered under Medicare part B.

''(b) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for any taxable year if—

''(1) such individual is covered under Medicare part B for any month during such year, and

''(2) the modified adjusted gross income of the taxpayer for such taxable year exceeds the threshold amount.

''(c) SUPPLEMENTAL MEDICARE PART B PREMIUM.—

''(1) IN GENERAL.—For purposes of subsection (a), the supplemental Medicare part B premium for any month is an amount equal to the excess of—

''(A) subject to adjustment under paragraph (2), 200 percent of the monthly actuarial rate for enrollees age 65 and over determined under subsection 1839(a)(1) of the Social Security Act for such month, over

''(B) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

''(2) ADJUSTING MONTHLY ACTUARIAL RATE BY GEOGRAPHIC AREA.—

''(A) IN GENERAL.—In determining the amount described in paragraph (1)(A) for an individual residing in a premium area, the Secretary shall adjust such amount for a year by a geographic adjustment factor established by the Secretary which reflects the relative benefits and administrative costs payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in the year with respect to enrollees residing in such are compared to the national average of such benefits and costs.

''(B) PREMIUM AREA.—In this paragraph, a 'premium area' means a metropolitan statistical area or the portion of a State outside of any metropolitan statistical area.

''(d) PHASEIN.—

''(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $50,000, the amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $50,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

''(2) PHASEIN RANGE FOR JOINT RETURNS.—In the case of a joint return, paragraph (1) shall be applied by substituting '$75,000' for '$50,000'.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

''(A) except as otherwise provided in this paragraph, $50,000,

''(B) $75,000 in the case of a joint return, and

''(C) zero in the case of a taxpayer who—

''(i) is married at the close of the taxable year but does not file a joint return for such year, and

''(ii) does not live apart from his spouse at all times during the taxable year.

''(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 931 and 933.

''(3) JOINT RETURNS.—In the case of a joint return—

''(A) the amount imposed by subsection (a) shall be the sum of the amounts so imposed determined separately for each spouse, and

''(B) subsections (a) and (d) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

''(4) MEDICARE PART B COVERAGE.—An individual shall be treated as covered under Medicare part B for any month if a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part for the month.

''(5) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703.

''(f) COORDINATION WITH OTHER PROVISIONS.—

''(1) TREATMENT AS MEDICAL EXPENSE.—For purposes of section 213, the supplemental Medicare part B premium imposed by this section shall be treated as an amount paid for insurance covering medical care (as defined in section 213(d)).

''(2) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F (other than section 6654), the supplemental Medicare part B premium imposed by this section shall be treated as if it were a tax imposed by section 1.

''(3) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The supplemental Medicare part B premium imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit allowable under this chapter, or

''(B) the amount of the minimum tax imposed by section 55.''

(b) TRANSFERS TO SUPPLEMENTAL MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Supplemental Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of section 59B of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Supplemental Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the portion of the supplemental Medicare part B premium (as defined in such section 59B) which is attributable to months during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) (relating to returns relating to social security benefits) is amended by striking ''and'' at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

''(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and''.

(2) Paragraph (2) of section 6050F(b) is amended to read as follows:

''(2) the information required to be shown on such return with respect to such individual.''

(3) Paragraph (1) of section 6050F(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) the Secretary of Health and Human Services in the case of the information specified in subsection (a)(1)(D).''

(4) The heading for section 6050F is amended by inserting ''and medicare part b coverage'' before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting ''and Medicare part B coverage'' before the period.

(d) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

''Part VIII—Supplemental Medicare part B premiums for high-income individuals.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 1995 in taxable years ending after December 31, 1995.

SEC. 8303. EXPANDED COVERAGE OF PREVENTIVE BENEFITS.

(a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iv), by striking ''but under 65 years of age,''; and

(2) by striking clause (v).

(b) COVERAGE OF SCREENING PAP SMEAR AND PELVIC EXAMS.—

(1) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(A) in the heading, by striking ''Smear'' and inserting ''Smear; Screening Pelvic Exam'';

(B) by striking ''(nn)'' and inserting ''(nn)(1)'';

(C) by striking ''3 years'' and all that follows and inserting ''3 years, or during the preceding year in the case of a woman described in paragraph (3).''; and

(D) by adding at the end the following new paragraphs:

''(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

''(3) A woman described in this paragraph is a woman who—

''(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical cancer; or

''(B) is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary).''.

(2) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by subsection (a)(2), is amended—

(A) by striking ''and (5)'' and inserting ''(5)''; and

(B) by striking the period at the end and inserting the following: '', and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn)).''.

(3) CONFORMING AMENDMENTS.—(A) Section 1861(s)(14) (42 U.S.C. 1395x(s)(14)) is amended by inserting ''and screening pelvic exam'' after ''screening pap smear''.

(B) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting ''and screening pelvic exam'' after ''screening pap smear''.

(c) COVERAGE OF COLORECTAL SCREENING.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

''(d) FREQUENCY AND PAYMENT LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS, SCREENING FLEXIBLE SIGMOIDOSCOPIES, AND SCREENING COLONOSCOPY.—

''(1) FREQUENCY LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test is performed—

''(A) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

''(B) in the case of any other individual, within the 11 months following the month in which a previous screening fecal-occult blood test was performed.

''(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

''(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

''(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—

''(i) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

''(ii) in the case of any other individual, within the 59 months following the month in which a previous screening flexible sigmoidoscopy was performed.

''(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

''(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening colonoscopy for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

''(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening colonoscopy for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 47 months following the month in

which a previous screening colonoscopy was performed.

''(C) FACTORS CONSIDERED IN ESTABLISHING CRITERIA FOR DETERMINING INDIVIDUALS AT HIGH RISK.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

''(4) REVISION OF FREQUENCY.—

''(A) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy based on age and such other factors as the Secretary believes to be pertinent.

''(B) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection.''.

(2) CONFORMING AMENDMENTS.—(A) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by striking ''subsection (h)(1),'' and inserting ''subsection (h)(1) or section 1834(d)(1),''.

(B) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w–4(a)(2)(A)) are each amended by striking ''a service'' and inserting ''a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer or a screening colonoscopy provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)''.

(C) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (1)—

(I) in subparagraph (E), by striking ''and'' at the end;

(II) in subparagraph (F), by striking the semicolon at the end and inserting '', and''; and

(III) by adding at the end the following new subparagraph:

''(G) in the case of screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);''; and

(ii) in paragraph (7), by striking ''paragraph (1)(B) or under paragraph (1)(F)'' and inserting ''subparagraphs (B), (F), or (G) of paragraph (1)''.

(d) PROSTATE CANCER SCREENING TESTS.—

(1) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking ''and'' at the end of subparagraph (N) and subparagraph (O); and

(B) by inserting after subparagraph (O) the following new subparagraph:

''(P) prostate cancer screening tests (as defined in subsection (oo)); and''.

(2) TESTS DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Prostate Cancer Screening Tests

''(oo) The term 'prostate cancer screening test' means a test that consists of a digital rectal examination or a prostate-specific antigen blood test (or both) provided for the purpose of early detection of prostate cancer to a man over 40 years of age who has not had such a test during the preceding year.''.

(3) PAYMENT FOR PROSTATE-SPECIFIC ANTIGEN BLOOD TEST UNDER CLINICAL DIAGNOSTIC LABORATORY TEST FEE SCHEDULES.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after ''laboratory tests'' the following: ''(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)''.

(4) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by subsection (c)(3)(C), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking ''and'' at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting '', and'', and

(iii) by adding at the end the following new subparagraph:

''(H) in the case of prostate cancer screening test (as defined in section 1861(oo)) provided for the purpose of early detection of prostate cancer, which are performed more frequently than is covered under such section;''; and

(B) in paragraph (7), by striking ''or (G)'' and inserting ''(G), or (H)''.

(e) DIABETES SCREENING BENEFITS.—

(1) DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(A) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by subsection (d)(1), is amended—

(i) by striking ''and'' at the end of subparagraph (N);

(ii) by striking ''and'' at the end of subparagraph (O); and

(iii) by inserting after subparagraph (O) the following new subparagraph:

''(P) diabetes outpatient self-management training services (as defined in subsection (pp)); and''.

(B) DEFINITION.—Section 1861 (42 U.S.C. 1395x), as amended by subsection (d)(2), is amended by adding at the end the following new subsection:

''DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES

''(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by or under arrangements with a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

''(2) In paragraph (1)—

''(A) a 'certified provider' is an individual or entity that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

''(B) an individual or entity meets the quality standards described in this paragraph if the individual or entity meets quality standards established by the Secretary, except that the individual or entity shall be deemed to have met such standards if the individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by the American Diabetes Association as meeting standards for furnishing the services.''.

(C) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848(a) of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including the American Diabetes Association, in determining the relative value for such services under section 1848(c)(2) of such Act.

(2) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(A) INCLUDING STRIPS AS DURABLE MEDICAL EQUIPMENT.—Section 1861(n) (42 U.S.C. 1395x(n)) is amended by striking the semicolon in the first sentence and inserting the following: '', and includes blood-testing strips for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes (as determined under standards established by the Secretary in consultation with the American Diabetes Association);''.

(2) PAYMENT FOR STRIPS BASED ON METHODOLOGY FOR INEXPENSIVE AND ROUTINELY PURCHASED EQUIPMENT.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking ''or'' at the end of clause (ii);

(B) by adding ''or'' at the end of clause (iii); and

(C) by inserting after clause (iii) the following new clause:

''(iv) which is a blood-testing strip for an individual with diabetes,''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1996.

Subtitle E—Medicare Fraud Reduction

SEC. 8401. INCREASING BENEFICIARY AWARENESS OF FRAUD AND ABUSE.

(a) BENEFICIARY OUTREACH EFFORTS.—The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall make ongoing efforts (through public service announcements, publications, and other appropriate methods) to alert individuals entitled to benefits under the medicare program of the existence of fraud and abuse committed against the program and the costs to the program of such fraud and abuse, and of the existence of the toll-free telephone line operated by the Secretary to receive information on fraud and abuse committed against the program.

(b) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary shall provide an explanation of benefits under the medicare program with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(c) PROVIDER OUTREACH EFFORTS; PUBLICATION OF FRAUD ALERTS.—

(1) SPECIAL FRAUD ALERTS.—

(A) IN GENERAL.—

(i) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Secretary to issue and publish a special fraud alert.

(ii) SPECIAL FRAUD ALERT DEFINED.—In this section, a ''special fraud alert'' is a notice which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act).

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—

(i) INVESTIGATION.—Upon receipt of a request for a special fraud alert under subparagraph (A), the Secretary shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Secretary (in consultation with the Attorney General) shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(ii) CRITERIA FOR ISSUANCE.—In determining whether to issue a special fraud alert upon a request under subparagraph (A), the Secretary may consider—

(I) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subparagraph (C); and

(II) the extent and frequency of the conduct that would be identified in the special fraud alert.

(C) CONSEQUENCES DESCRIBED.—The consequences described in this subparagraph are as follows:

(i) An increase or decrease in access to health care services.

(ii) An increase or decrease in the quality of health care services.

(iii) An increase or decrease in patient freedom of choice among health care providers.

(iv) An increase or decrease in competition among health care providers.

(v) An increase or decrease in the cost to health care programs of the Federal Government.

(vi) An increase or decrease in the potential overutilization of health care services.

(viii) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in health care programs of the Federal Government.

(2) PUBLICATION OF ALL HCFA FRAUD ALERTS IN FEDERAL REGISTER.—Each notice issued by the Health Care Financing Administration which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act) shall be published in the Federal Register, without regard to whether or not the notice is issued by a regional office of the Health Care Financing Administration.

SEC. 8402. BENEFICIARY INCENTIVES TO REPORT FRAUD AND ABUSE.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 8403. ELIMINATION OF HOME HEALTH OVERPAYMENTS.

(a) REQUIRING BILLING AND PAYMENT TO BE BASED ON SITE WHERE SERVICE FURNISHED.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

''(g) A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished during cost reporting periods beginning on or after October 1, 1995.

SEC. 8404. SKILLED NURSING FACILITIES.

(a) CLARIFICATION OF TREATMENT OF HOSPITAL TRANSFERS.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

''(iii) In making adjustments under clause (i) for transfer cases, the Secretary shall treat as a transfer any transfer to a hospital (without regard to whether or not the hospital is a subsection (d) hospital), a unit thereof, or a skilled nursing facility.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 8405. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII, as amended by section 8231(d), is further amended by adding at the end the following new section:

''MEDICARE INTEGRITY PROGRAM

''SEC. 1894. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (hereafter in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

''(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

''(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

''(2) Audit of cost reports.

''(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

''(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

''(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

''(1) the entity has demonstrated capability to carry out such activities;

''(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

''(3) the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

''(4) the entity meets such other requirements as the Secretary may impose.

''(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary may by regulation establish, except that such procedures shall include the following:

''(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

''(2) The provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section, except that competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary.

''(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

''(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

''(f) TRANSFER OF AMOUNTS TO MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—For each fiscal year, the Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Medicare Anti-Fraud and Abuse Trust Fund under subsection (g) such amounts as are necessary to carry out the activities described in subsection (b). Such transfer shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.

''(g) MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—There is hereby established in the Treasury of the United States the Anti-Fraud and Abuse Trust Fund (hereafter in this subsection referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in subparagraph (B) and such amounts as may be deposited in the Trust Fund as provided in subsection (f), paragraph (3), and title XI.

''(B) AUTHORIZATION TO ACCEPT GIFTS AND BEQUESTS.—The Trust Fund is authorized to

accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund or any activity financed through the Trust Fund.

''(2) INVESTMENT.—

''(A) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund in government account serial securities.

''(B) USE OF INCOME.—Any interest derived from investments under subparagraph (A) shall be credited to the Fund.

''(3) AMOUNTS DEPOSITED INTO TRUST FUND.—In addition to amounts transferred under subsection (f), there shall be deposited in the Trust Fund—

''(A) that portion of amounts recovered in relation to section 1128A arising out of a claim under title XVIII as remains after application of subsection (f)(2) (relating to repayment of the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund) of that section, as may be applicable,

''(B) fines imposed under section 1128B arising out of a claim under this title, and

''(C) penalties and damages imposed (other than funds awarded to a relator or for restitution) under sections 3729 through 3732 of title 31, United States Code (pertaining to false claims) in cases involving claims relating to programs under title XVIII, XIX, or XXI.

''(4) DIRECT APPROPRIATION OF FUNDS TO CARRY OUT PROGRAM.—

''(A) IN GENERAL.—There are appropriated from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under this section, subject to subparagraph (B).

''(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

''(i) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

''(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

''(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

''(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

''(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

''(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

''(vii) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

''(5) ANNUAL REPORT.—The Secretary shall submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Trust Fund in each fiscal year.''.

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

''(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894.''.

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

''(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894.''.

(c) CONFORMING AMENDMENT.—Section 1128A(f)(3) (42 U.S.C. 1320a–7a(f)(3)) is amended by striking ''as miscellaneous receipts of the Treasury of the United States'' and inserting ''in the Anti-Fraud and Abuse Trust Fund established under section 1895(g)''.

(d) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—Section 1894, as added by subsection (a), is amended by adding at the end the following new subsection:

''(h) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

''(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

''(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are as follows:

''(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

''(B) Conducting investigations relating to the medicare program.

''(C) Performing financial and performance audits of programs and operations relating to the medicare program.

''(D) Performing inspections and other evaluations relating to the medicare program.

''(E) Conducting provider and conumer education activities regarding the requirements of this title.

''(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

''(A) For fiscal year 1996, such amount shall be $130,000,000.

''(B) For fiscal year 1997, such amount shall be $181,000,000.

''(C) For fiscal year 1998, such amount shall be $204,000,000.

''(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

''(4) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under paragraph (1) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.''.

SEC. 8406. FRAUD REDUCTION DEMONSTRATION PROJECT.

(a) IN GENERAL.—Not later than July 1, 1996, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish not less than three demonstration projects under which organizations with a contract under section 1816 or section 1842 of the Social Security Act—

(1) identify practitioners and providers whose patterns of providing care to beneficiaries enrolled under title XVIII of the Social Security Act are consistently outside the norm for other practitioners or providers of the same category, class, or type, and

(2) experiment with ways of identifying fraudulent claims submitted to the program established under such title before they are paid.

(b) DURATION OF PROJECTS.—Each project established under subsection (a) shall last for at least 18 months and shall focus on those categories, classes, or types of providers and practitioners that have been identified by the Inspector General of the Department of Health and Human Services as having a high incidence of fraud and abuse.

(c) REPORT.—Not later than July 1, 1997, the Secretary shall report to the Congress on the demonstration projects established under subsection (a), and shall include in the report an assessment of the effectiveness of, and any recommended legislative changes based on, the projects.

SEC. 8407. REPORT ON COMPETITIVE PRICING.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall submit to Congress a report recommending legislative changes to the medicare program to enable the prices paid for items and services under the medicare program to be established on a more competitive basis.

Subtitle F—Improving Access to Health Care

PART 1—ASSISTANCE FOR RURAL PROVIDERS

Subpart A—Rural Hospitals

SEC. 8501. SOLE COMMUNITY HOSPITALS.

(a) UPDATE.—Section 1886(b)(3)(B)(iv) (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(A) in subclause (III), by striking ''and'' at the end; and

(B) by striking subclause (IV) and inserting the following:

''(IV) for each of the fiscal years 1996 through 2000, the market basket percentage increase minus 1 percentage points, and

''(V) for fiscal year 2001 and each subsequent fiscal year, the applicable percentage increase under clause (i).''.

(b) STUDY OF IMPACT OF SOLE COMMUNITY HOSPITAL DESIGNATIONS.—

(1) STUDY.—The Medicare Payment Review Commission shall conduct a study of the impact of the designation of hospitals as sole community hospitals under the medicare program on the delivery of health care services to individuals in rural areas, and shall include in the study an analysis of the characteristics of the hospitals designated as such sole community hospitals under the program.

(2) REPORT.—Not later than 12 months after the date a majority of the members of the Commission are first appointed, the Commission shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 7022. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking ''October 1, 1994,'' and inserting ''October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,''; and

(B) in clause (ii)(II), by striking ''October 1, 1994'' and inserting ''October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,''.

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking ''September 30, 1994,'' and inserting ''September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000,'';

(B) in clause (ii), by striking ''and'' at the end;

(C) in clause (iii), by striking the period at the end and inserting '', and''; and

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

''(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).''.

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking ''or fiscal year 1994'' and inserting '', fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999''.

(4) TECHNICAL CORRECTION.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)(i)), as in effect before the amendment made by paragraph (1), is amended by striking all that follows the first period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.

SEC. 7023. PROPAC RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS.

Section 1886(e)(3)(A) (42 U.S.C. 1395ww(e)(3)(A)) is amended by adding at the end the following new sentence: ''The Commission shall, beginning in 1996, report its recommendations to Congress on an appropriate update to be used for urban hospitals with a high proportion of medicare patient days and on actions to ensure that medicare beneficiaries served by such hospitals retain the same access and quality of care as medicare beneficiaries nationwide.''.

SEC. 7024. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.

(a) COVERAGE IN OUTPATIENT OR HOME SETTINGS FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking ''or'' at the end of subclause (II); and

(B) by inserting ''or (IV) in an outpatient or home setting as defined by the Secretary'' following ''shortage area,''; and

(2) in clause (ii)—

(A) by striking ''in a skilled'' and inserting ''in (I) a skilled''; and

(B) by inserting '', or (II) in an outpatient or home setting (as defined by the Secretary),'' after ''(as defined in section 1919(a))''.

(b) PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) IN GENERAL.—Section 1833(r)(1) (42 U.S.C. 1395*l*(r)(1)) is amended—

(A) by inserting ''services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting'' after ''rural area),''; and

(B) by striking ''or clinical nurse specialist'' and inserting ''clinical nurse specialist, or physician assistant''.

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking ''clauses (i), (ii), or (iv)'' and inserting ''subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)''.

(c) PAYMENT UNDER THE FEE SCHEDULE TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

''(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—

''(i) payment under this part may only be made on an assignment-related basis; and

''(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.''.

(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking ''(i), (ii),'' and inserting ''subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)''.

(3) TECHNICAL AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking ''a physician assistants'' and inserting ''physician assistants''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7027. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i–4) is amended to read as follows:

''MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

''SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

''(1) ensure access to health care services for rural communities by allowing hospitals to be designated as critical access hospitals if such hospitals limit the scope of available inpatient acute care services;

''(2) provide more appropriate and flexible staffing and licensure standards;

''(3) enhance the financial security of critical access hospitals by requiring that medicare reimburse such facilities on a reasonable cost basis; and

''(4) promote linkages between critical access hospitals designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

''(b) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (c) may establish a medicare rural hospital flexibility program described in subsection (d).

''(c) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

''(1) assurances that the State—

''(A) has developed, or is in the process of developing, a State rural health care plan that—

''(i) provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

''(ii) promotes regionalization of rural health services in the State, and

''(iii) improves access to hospital and other health services for rural residents of the State;

''(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

''(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

''(3) such other information and assurances as the Secretary may require.

''(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

''(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a medicare rural hospital flexibility program that provides that—

''(A) the State shall develop at least one rural health network (as defined in subsection (e)) in the State; and

''(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

''(2) STATE DESIGNATION OF FACILITIES.—

''(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

''(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

''(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

''(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

''(II) is certified by the State as being a necessary provider of health care services to residents in the area; and

''(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

''(iii) provides not more than 15 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

''(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

''(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

''(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1), and

''(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

''(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

''(3) DEEMED TO HAVE ESTABLISHED A PROGRAM.—A State that received a grant under this section on or before December 31, 1995, and the State of Montana shall be deemed to have established a program under this subsection.

''(e) RURAL HEALTH NETWORK DEFINED.—

''(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

''(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

''(B) at least 1 hospital that furnishes acute care services.

''(2) AGREEMENTS.—

''(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

''(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

''(i) Patient referral and transfer.

''(ii) The development and use of communications systems including (where feasible)—

''(I) telemetry systems, and

''(II) systems for electronic sharing of patient data.

''(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

''(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

''(i) hospital that is a member of the network;

''(ii) peer review organization or equivalent entity; or

''(iii) other appropriate and qualified entity identified in the State rural health care plan.

''(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

''(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (d);

''(2) is designated as a critical access hospital by the State in which it is located; and

''(3) meets such other criteria as the Secretary may require.

''(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a critical access hospital from entering into an agreement with the Secretary under section 1883 to use the beds designated for inpatient cases pursuant to subsection (d)(2)(A)(iii) for extended care services.

''(h) GRANTS.—

''(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

''(A) engaging in activities relating to planning and implementing a rural health care plan;

''(B) engaging in activities relating to planning and implementing rural health networks; and

''(C) designating facilities as critical access hospitals.

''(2) RURAL EMERGENCY MEDICAL SERVICES.—

''(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

''(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

''(i) GRANDFATHERING OF CERTAIN FACILITIES.—

''(1) IN GENERAL.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Rural Health Improvement Act of 1995 shall be deemed to have been certified by the Secretary under subsection (f) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (d).

''(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a 'critical access hospital' shall be deemed to be a reference to a 'medical assistance facility' or 'rural primary care hospital'.

''(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 2000.''.

(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall submit to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(d)(2)(B)(iii).

(c) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

''CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

''(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(f).

''(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.''.

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking ''or inpatient rural primary care hospital services'' and inserting ''or inpatient critical access hospital services''.

(B) Section 1814 (42 U.S.C. 1395f) is amended—

(i) on subsection (a)(8)—

(I) by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''; and

(II) by striking ''72'' and inserting ''96'';

(ii) in subsection (b), by striking ''other than a rural primary care hospital providing inpatient rural primary care hospital services,'' and inserting ''other than a critical access hospital providing inpatient critical access hospital services,''; and

(iii) by amending subsection (*l*) to read as follows:

''(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.''.

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking ''a rural primary care hospital'' and inserting ''a critical access hospital''.

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(B) Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(C) Section 1134 (42 U.S.C. 1320b–4) is amended by striking ''rural primary care hospitals'' each place it appears and inserting ''critical access hospitals''.

(D) Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking ''rural primary care hospital'' and inserting ''critical access hospital''; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(F) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(ii) in subsection (i)(1)(A), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(iii) in subsection (i)(3)(A), by striking ''rural primary care hospital services'' and inserting ''critical access hospital services'';

(iv) in subsection (l)(5)(A), by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''; and

(v) in subsection (l)(5)(B), by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(I) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in the last sentence of subsection (e), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(ii) in subsection (v)(1)(S)(ii)(III), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(iii) in subsection (w)(1), by striking ''rural primary care hospital'' and inserting ''critical access hospital''; and

(iv) in subsection (w)(2), by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking ''rural primary care hospitals'' and inserting ''critical access hospitals'';

(ii) in subparagraph (H), in the matter preceding clause (i), by striking ''rural primary care hospitals'' and ''rural primary care hospital services'' and inserting ''critical access hospitals'' and ''critical access hospital services'', respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking ''rural primary care hospital'' and inserting ''critical access hospital''; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking ''rural primary hospitals'' and inserting ''critical access hospitals'', and

(II) in clause (i), by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking ''rural primary care hospital'' each place it appears in subparagraphs (A) and (B) and inserting ''critical access hospital''; and

(ii) in subparagraph (C)(ii)(II), by striking ''rural primary care hospitals'' each place it appears and inserting ''critical access hospitals''.

(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(d) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting ''as in effect or designated by the State on January 1, 1996'' before the period at the end; and

(2) in clause (v)—

(A) by inserting ''as in effect or designated by the State on January 1, 1996'' after ''1820(i)(1)''; and

(B) by striking ''1820(g)'' and inserting ''1820(e)''.

(e) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

''(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.''.

(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking ''rural primary care hospital services'' and inserting ''critical access hospital services''.

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking ''outpatient rural primary care hospital services'' and inserting ''outpatient critical access services''.

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:

''(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

''(1) IN GENERAL.—The amount of payment for outpatient critical access hospital services provided in a critical access hospital under this part shall be determined by one of the 2 following methods, as elected by the critical access hospital:

''(A) REASONABLE COST.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services

(B) ALL-INCLUSIVE RATE.—With respect to both facility services and professional medical services, there shall be paid amounts equal to the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, less the amount the hospital may charge as described in clause (i) of section 1866(a)(2)(A), but in no case may the payment for such services (other than for items and services described in section 1861(s)(10)(A)) exceed 80 percent of such costs. The amount of payment shall be determined under either method without regard to the amount of the customary or other charge. ''.

(f) SWING BEDS.—Section 1883 (42 U.S.C. 1395tt) is amended by adding at the end the following new subsection:

''(g) Nothing in this section shall prohibit the Secretary from entering into an agreement with a critical access hospital.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.

SEC. 8504. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

''(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.''.

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

SEC. 8505. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) BUDGET-NEUTRALITY IN IMPLEMENTATION.—The Secretary of Health and Human Services shall make any adjustments required under subsection (a) in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year without such adjustments.

SEC. 8506. MEDICAL EDUCATION.

(a) STATE AND CONSORTIUM DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—

(A) PARTICIPATION OF STATES AND CONSORTIA.—The Secretary shall establish and conduct a demonstration project to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice under which the Secretary shall make payments in accordance with paragraph (4)—

(i) to not more than 10 States for the purpose of testing and evaluating mechanisms to meet the goals described in subsection (b); and

(ii) to not more than 10 health care training consortia for the purpose of testing and evaluating mechanisms to meet such goals.

(B) EXCLUSION OF CONSORTIA IN PARTICIPATING STATES.—A consortia may not receive payments under the demonstration project under subparagraph (A)(ii) if any of its members is located in a State receiving payments under the project under subparagraph (A)(i).

(2) APPLICATIONS.—

(A) IN GENERAL.—Each State and consortium desiring to conduct a demonstration project under this subsection shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require to assure that the State or consortium will meet the goals described in subsection (b). In the case of an application of a State, the application shall include—

(i) information demonstrating that the State has consulted with interested parties with respect to the project, including State medical associations, State hospital associations, and medical schools located in the State;

(ii) an assurance that no hospital conducting an approved medical residency training program in the State will lose more than 10 percent of such hospital's approved medical residency positions in any year as a result of the project; and

(iii) an explanation of a plan for evaluating the impact of the project in the State.

(B) APPROVAL OF APPLICATIONS.—A State or consortium that submits an application under subparagraph (A) may begin a demonstration project under this subsection—

(i) upon approval of such application by the Secretary; or

(ii) at the end of the 60-day period beginning on the date such application is submitted, unless the Secretary denies the application during such period.

(C) NOTICE AND COMMENT.—A State or consortium shall issue a public notice on the date it submits an application under subparagraph (A) which contains a general description of the proposed demonstration project. Any interested party may comment on the proposed demonstration project to the State or consortium or the Secretary during the 30-day period beginning on the date the public notice is issued.

(3) SPECIFIC REQUIREMENTS FOR PARTICIPANTS.—

(A) REQUIREMENTS FOR STATES.—Each State participating in the demonstration project under this section shall use the payments provided under paragraph (4) to test and evaluate either of the following mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice:

(i) USE OF ALTERNATIVE WEIGHTING FACTORS.—

(I) IN GENERAL.—The State may make payments to hospitals in the State for direct graduate medical education costs in amounts determined under the methodology provided under section 1886(h) of the Social Security Act, except that the State shall apply weighting factors that are different than the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(II) USE OF PAYMENTS FOR PRIMARY CARE RESIDENTS.—In applying different weighting factors under subclause (I), the State shall ensure that the amount of payment made to hospitals for costs attributable to primary care residents shall be greater than the amount that would have been paid to hospitals for costs attributable to such residents if the State had applied the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(ii) PAYMENTS FOR MEDICAL EDUCATION THROUGH CONSORTIUM.—The State may make payments for graduate medical education costs through payments to a health care training consortium (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium) that is established in the State but that is not otherwise participating in the demonstration project.

(B) REQUIREMENTS FOR CONSORTIUM.—

(i) IN GENERAL.—In the case of a consortium participating in the demonstration project under this section, the Secretary shall make payments for graduate medical education costs through a health care training consortium whose members provide medical residency training (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium).

(ii) USE OF PAYMENTS.—

(I) IN GENERAL.—Each consortium receiving payments under clause (i) shall use such funds to conduct activities which test and evaluate mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice, and may use such funds for the operation of the consortium.

(II) PAYMENTS TO PARTICIPATING PROGRAMS.—The consortium shall ensure that the majority of the payments received under clause (i) are directed to consortium members for primary care residency programs, and shall designate for each resident assigned to the consortium a hospital operating an approved medical residency training program for purposes of enabling the Secretary to calculate the consortium's payment amount under the project. Such hospital shall be the hospital where the resident receives the majority of the resident's hospital-based, nonambulatory training experience.

(4) ALLOCATION OF PORTION OF MEDICARE GME PAYMENTS FOR ACTIVITIES UNDER PROJECT.—Notwithstanding any provision of title XVIII of the Social Security Act, the following rules apply with respect to each State and each health care training consortium participating in the demonstration project established under this subsection during a year:

(A) In the case of a State—

(i) the Secretary shall reduce the amount of each payment made to hospitals in the State during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the State an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(B) In the case of a consortium—

(i) the Secretary shall reduce the amount of each payment made to hospitals who are members of the consortium during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the consortium an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(5) DURATION.—A demonstration project under this subsection shall be conducted for a period not to exceed 5 years. The Secretary may terminate a project if the Secretary determines that the State or consortium conducting the project is not in substantial compliance with the terms of the application approved by the Secretary.

(6) EVALUATIONS AND REPORTS.—

(A) EVALUATIONS.—Each State or consortium participating in the demonstration project shall submit to the Secretary a final evaluation within 360 days of the termination of the State or consortium's participation and such interim evaluations as the Secretary may require.

(B) REPORTS TO CONGRESS.—Not later than 360 days after the first demonstration project under this section begins, and annually thereafter for each year in which such a project is conducted, the Secretary shall submit a report to Congress which evaluates the effectiveness of the State and consortium activities conducted under such projects and includes any legislative recommendations determined appropriate by the Secretary.

(7) MAINTENANCE OF EFFORT.—Any funds available for the activities covered by a demonstration project under this section shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

(b) GOALS FOR PROJECTS.—The goals referred to in this subsection for a State or consortium participating in the demonstration project under this section are as follows:

(1) The training of an equal number of physician and nonphysician primary care providers.

(2) The recruiting of residents for graduate medical education training programs who received a portion of undergraduate training in a rural area.

(3) The allocation of not less than 50 percent of the training spent in a graduate medical residency training program at sites at which acute care inpatient hospital services are not furnished.

(4) The rotation of residents in approved medical residency training programs among practices that serve residents of rural areas.

(5) The development of a plan under which, after a 5-year transition period, not less than 50 percent of the residents who begin an initial residency period in an approved medical residency training program shall be primary care residents.

(c) DEFINITIONS.—In this section:

(1) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term ''approved medical residency training program'' has the meaning given such term in section 1886(h)(5)(A) of the Social Security Act.

(2) HEALTH CARE TRAINING CONSORTIUM.—The term ''health care training consortium'' means a State, regional, or local entity consisting of at least one of each of the following:

(A) A hospital operating an approved medical residency training program at which residents receive training at ambulatory training sites located in rural areas.

(B) A school of medicine or osteopathic medicine.

(C) A school of allied health or a program for the training of physician assistants (as such terms are defined in section 799 of the Public Health Service Act).

(D) A school of nursing (as defined in section 853 of the Public Health Service Act).

(3) PRIMARY CARE.—The term ''primary care'' means family practice, general internal medicine, general pediatrics, and obstetrics and gynecology.

(4) RESIDENT.—The term ''resident'' has the meaning given such term in section 1886(h)(5)(H) of the Social Security Act.

(5) RURAL AREA.—The term ''rural area'' has the meaning given such term in section 1886(d)(2)(D) of the Social Security Act.

Subpart B—Rural Physicians and Other Providers

SEC. 8511. PROVIDER INCENTIVES.

(a) ADDITIONAL PAYMENTS UNDER MEDICARE FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.—

(1) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking ''10 percent'' and inserting ''20 percent''.

(2) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after ''physicians' services'' the following: ''consisting of primary care services (as defined in section 1842(i)(4))''.

(3) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—

(A) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking ''area,'' and inserting ''area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation),''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to physicians' services furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1996.

(4) REQUIRING CARRIERS TO REPORT ON SERVICES PROVIDED.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking ''and'' at the end of subparagraph (I); and

(B) by inserting after subparagraph (I) the following new subparagraph:

''(J) will provide information to the Secretary not later than 30 days after the end of the contract year on the types of providers to whom the carrier made additional payments during the year for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers during the year; and''.

(5) STUDY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study analyzing the effectiveness of the provision of additional payments under part B of the medicare program for physicians' services provided in health professional shortage areas in recruiting and retaining physicians to provide services in such areas.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subparagraph (A), and shall include in the report such recommendations as the Secretary considers appropriate.

(6) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (4) shall apply to physicians' services furnished on or after January 1, 1996.

(b) DEVELOPMENT OF MODEL STATE SCOPE OF PRACTICE LAW.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop and publish a model law that may be adopted by States to increase the access of individuals residing in underserved rural areas to health care services by expanding the services which non-physician health care professionals may provide in such areas.

(2) DEADLINE.—The Secretary shall publish the model law developed under paragraph (1) not later than 1 year after the date of the enactment of this Act.

SEC. 8512. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

''(a) GENERAL RULE.—Gross income shall not include any qualified loan repayment.

''(b) QUALIFIED LOAN REPAYMENT.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking ''Federal, State, or local'' and inserting ''State or local''.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

''Sec. 137. National Health Service Corps loan repayments.
''Sec. 138. Cross references to other Acts.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 8513. TELEMEDICINE PAYMENT METHODOLOGY.

The Secretary of Health and Human Services shall establish a methodology for making payments under part B of the medicare program for telemedicine services furnished on an emergency basis to individuals residing in an area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act).

SEC. 8514. DEMONSTRATION PROJECT TO INCREASE CHOICE IN RURAL AREAS.

The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall conduct a demonstration project to assess the advantages and disadvantages of requiring Medicare Choice organizations under part C of title XVIII of the Social Security Act (as added by section 8002(a)) to market Medicare Choice products in certain underserved areas which are near the standard service area for such products.

PART 2—MEDICARE SUBVENTION

SEC. 8521. MEDICARE PROGRAM PAYMENTS FOR HEALTH CARE SERVICES PROVIDED IN THE MILITARY HEALTH SERVICES SYSTEM.

(a) PAYMENTS UNDER MEDICARE RISK CONTRACTS PROGRAM.—

(1) CURRENT PROGRAM.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

''(k) Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States Code, shall be considered an eligible organization under this section, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other eligible organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other eligible organizations with risk sharing contracts under this section.''.

(2) MEDICARE CHOICE PROGRAM.—Section 1855, as inserted by section 8002(a), by adding at the end the following new subsection:

''(h) PAYMENTS TO MILITARY PROGRAM.—Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States Code, shall be considered a Medicare Choice organization under this part, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other Medicare Choice organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other Medicare Choice organizations with contracts in effect under this part.''.

(b) TEMPORARY PROVISION FOR WAIVER OF PART B PREMIUM PENALTY.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

''(h) The premium increase required by subsection (b) shall not apply with respect to a person who is enrolled with a managed care plan that is established by the Secretary of Defense under chapter 55 of title 10, United States Code, and is recognized as an eligible organization pursuant to section 1855(h) or section 1876(k), if such person first enrolled in such plan prior to January 1, 1998.''.

(c) PAYMENTS UNDER PART A OF MEDICARE.—Section 1814(c) (42 U.S.C. 1395f(c)) is amended—

(1) by redesignating the current matter as paragraph (1); and

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

''(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.''.

(d) PAYMENTS UNDER PART B OF MEDICARE.—Section 1835(d) (42 U.S.C. 1395n(d)) is amended—

(1) by redesignating the current matter as paragraph (1); and

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

''(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.''.

(e) CONFORMING AMENDMENTS TO THE THIRD PARTY COLLECTION PROGRAM FOR MILITARY MEDICAL FACILITIES.—(1) Section 1095(d) of title 10, United States Code, is amended—

(A) by striking ''XVIII or''; and

(B) by striking ''1395'' and inserting ''1396''.

(2) Section 1095(h)(2) of such title is amended by inserting after ''includes'' the following: ''plans administered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

Subtitle G—Other Provisions

SEC. 8601. EXTENSION AND EXPANSION OF EXISTING SECONDARY PAYER REQUIREMENTS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking ''clause (iv)'' and inserting ''clause (iii)'',

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking ''1862(b)(1)(B)(iv)'' each place it appears and inserting ''1862(b)(1)(B)(iii)''.

(c) EXPANSION OF PERIOD OF APPLICATION TO INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking ''12-month'' each place it appears and inserting ''24-month'', and

(2) by striking the second sentence.

SEC. 8602. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) IN GENERAL.—Section 1144 (42 U.S.C. 1320b–14) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking ''under—'' and all that follows through the end and inserting ''subparagraph (A) for purposes of carrying out this subsection.'', and

(B) in subparagraph (C)(i), by striking ''subparagraph (B)(i)'' and inserting ''subparagraph (B)''.

(2) MEDICAID.—Section 1902(a)(25)(A)(i) (42 U.S.C. 1396a(a)(25)(A)(i)) is amended by striking ''including the use of'' and all that follows through ''any additional measures''.

(3) ERISA.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(4) DATA MATCHES.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

(A) by adding ''; or'' at the end of clause (v),

(B) by striking ''or'' at the end of clause (vi), and

(C) by striking clause (vii).

SEC. 8603. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.

(a) COVERAGE.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient hospital services (as defined for purposes of part A of the

medicare program) solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of an approved device.

(b) CLARIFICATION OF PAYMENT AMOUNT.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) may not exceed the amount of the payment which would have been made under the program for the item or service if the item or service were associated with the use of an approved device.

(c) DEFINITIONS.—In this section—

(1) the term ''approved device'' means a medical device which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term ''investigational device'' means a medical device (other than a device described in paragraph (1)) which is approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

SEC. 8604. ADDITIONAL EXCLUSION FROM COVERAGE.

(a) IN GENERAL.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking ''or'' at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting ''; or'', and

(3) by inserting after paragraph (15) the following new paragraph:

''(16) where such expenses are for items or services, or to assist in the purchase, in whole or in part, of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for items and services furnished on or after the date of the enactment of this Act.

SEC. 8605. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1996.

(b) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1997, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1997, shall be considered to be ''employment'' (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1997.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term ''medicare qualified State or local government employment'' means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting ''(1)'' after ''(g)'', and

(C) by adding at the end the following new paragraph:

''(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability.''

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking ''subparagraphs (B) and (C),'' and inserting ''subparagraph (B),''.

(2) Subparagraph (B) of section 210(p)(1) of the Social Security Act (42 U.S.C. 410(p)(1)) is amended by striking ''paragraphs (2) and (3).'' and inserting ''paragraph (2).''

(3) Section 218 of the Social Security Act (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after December 31, 1996.

ESTABLISHMENT OF COMMISSION TO PREPARE FOR THE 21ST CENTURY

SEC. 7161. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a commission to be known as the Medicare Commission To Prepare For The 21st Century (hereafter in this Act referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 7 members appointed by the President and confirmed by the Senate. Not more than 4 members selected by the President shall be members of the same political party.

(2) EXPERTISE.—The membership of the Commission shall include individuals with national recognition for their expertise on health matters.

(3) DATE.—The appointments of the members of the Commission shall be made no later than December 31, 1995.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

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

(g) CHAIRPERSON.—The President shall designate one person as Chairperson from among its members.

SEC. 7162. DUTIES OF THE COMMISSION.

(a) ANALYSES AND RECOMMENDATIONS.—

(1) IN GENERAL.—The Commission is charged with long-term strategic planning (for years after 2010) for the medicare program. The Commission shall—

(A) review long-term problems and opportunities facing the medicare program within the context of the overall health care system, including an analysis of the long-term financial condition of the medicare trust funds;

(B) analyze potential measures to assure continued adequacy of financing of the medicare program within the context of comprehensive health care reform and to guarantee medicare beneficiaries affordable and high quality health care services that takes into account—

(i) the health needs and financial status of senior citizens and the disabled,

(ii) overall trends in national health care costs,

(iii) the number of Americans without health insurance,

(iv) the impact of its recommendations on the private sector and on the medicaid program;

(C) consider a range of program improvements, including measures to—

(i) reduce waste, fraud, and abuse,

(ii) improve program efficiency,

(iii) improve quality of care and access, and

(iv) examine ways to improve access to preventive care and primary care services,

(v) improve beneficiary cost consciousness, including an analysis of proposals that would structure medicare from a defined benefits program to a defined contribution program and other means, and

(vi) measures to maintain a medicare beneficiary's ability to select a health care provider of the beneficiary's choice;

(D) prepare findings on the impact of all proposals on senior citizens' out-of-pocket health care costs and on any special considerations that should be made for seniors that live in rural areas and inner cities;

(E) recognize the uncertainties of long range estimates; and

(F) provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress.

(2) DEFINITION OF MEDICARE TRUST FUNDS.—For purposes of this subsection, the term ''medicare trust funds'' means the Federal

Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1941 of such Act (42 U.S.C. 1395t).

(b) REPORT.—The Commission shall submit its report to the President and the Congress not later than July 31, 1996.

SEC. 7163. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearing, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 7164. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT.—ALl members of the Commission who are officers or employees of the Federal Government shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) PRIVATE CITIZENS OF THE UNITED STATES.—

(A) IN GENERAL.—Subject to subparagraph (B), all members of the Commission who are not officers or employees of the Federal Government shall serve without compensation for their work on the Commission.

(B) TRAVEL EXPENSES.—The members of the Commission who are not officers or employees of the Federal Government shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission, to the extent funds are available therefor.

(b) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. At the request of the Chairman, the Secretary of Health and Human Services shall provide the Commission with any necessary administrative and support services. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) DETAIL OF GOVERNMENT EMLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 7165. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 7702(b).

SEC. 7166. FUNDING FOR THE COMMISSION.

Any expenses of the Commission shall be paid from such funds as may be otherwise available to the Secretary of Health and Human Services.

TITLE IX—WELFARE REFORM

SEC. 9000. AMENDMENT OF THE SOCIAL SECURITY ACT.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—Temporary Employment Assistance

SEC. 9101. STATE PLAN.

(a) IN GENERAL.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part A and inserting the following:

"PART A—TEMPORARY EMPLOYMENT ASSISTANCE

"SEC. 400. APPROPRIATION.

''For the purpose of providing assistance to families with needy children and assisting parents of children in such families to obtain and retain private sector work to the extent possible, and public sector or volunteer work if necessary, through the Work First Employment Block Grant program (hereafter in this title referred to as the 'Work First program'), there is hereby authorized to be appropriated, and is hereby appropriated, for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have approved State plans for temporary employment assistance.

"Subpart 1—State Plans for Temporary Employment Assistance

"SEC. 401. ELEMENTS OF STATE PLANS.

''A State plan for temporary employment assistance shall provide a description of the State program which carries out the purpose described in section 400 and shall meet the requirements of the following sections of this subpart.

"SEC. 402. FAMILY ELIGIBILITY FOR TEMPORARY EMPLOYMENT ASSISTANCE.

''(a) IN GENERAL.—The State plan shall provide that any family—

''(1) with 1 or more children (or any expectant family, at the option of the State), defined as needy by the State; and

''(2) which fulfills the conditions set forth in subsection (b),

shall be eligible for cash assistance under the plan, except as otherwise provided under this part.

''(b) INDIVIDUAL RESPONSIBILITY PLAN.—The State plan shall provide that not later than 30 days after the approval of the application for temporary employment assistance, a parent qualifying for assistance shall execute an individual responsibility plan as described in section 403. If a child otherwise eligible for assistance under this part is residing with a relative other than a parent, the State plan may require the relative to execute such a plan as a condition of the family receiving such assistance.

''(c) LIMITATIONS ON ELIGIBILITY.—

''(1) LENGTH OF TIME.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), (D), and (E), the State plan shall provide that the family of an individual who, after attaining age 18 years (or age 19 years, at the option of the State), has received assistance under the plan for 60 months, shall no longer be eligible for cash assistance under the plan.

''(B) HARDSHIP EXCEPTION.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which—

''(i) at the option of the State, the family includes an individual working 20 hours per week (or more, at the option of the State);

''(ii) the family resides in an area with an unemployment rate exceeding 8 percent; or

''(iii) the family is experiencing other special hardship circumstances which make it appropriate for the State to provide an exemption for such month, except that the total number of exemptions under this clause for any month shall not exceed 15 percent of the number of families to which the State is providing assistance under the plan.

''(C) EXCEPTION FOR TEEN PARENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which the parent—

''(i) is under age 18 (or age 19, at the option of the State); and

''(ii) is making satisfactory progress while attending high school or an alternative technical preparation school.

''(D) EXCEPTION FOR INDIVIDUALS EXEMPT FROM WORK REQUIREMENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which 1 or each of the parents—

''(i) is seriously ill, incapacitated, or of advanced age;

''(ii)(I) except for a child described in subclause (II), is responsible for a child under age 1 year (or age 6 months, at the option of the State), or

''(II) in the case of a 2nd or subsequent child born during such period, is responsible for a child under age 3 months;

''(iii) is pregnant in the 3rd trimester; or

''(iv) is caring for a family member who is ill or incapacitated.

''(E) EXCEPTION FOR CHILD-ONLY CASES.—With respect to any child who has not attained age 18 (or age 19, at the option of the State) and who is eligible for assistance under this part, but not as a member of a family otherwise eligible for assistance under this part (determined without regard to this paragraph), the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which such child has not attained such age.

''(F) OTHER PROGRAM ELIGIBILITY.—The State plan shall provide that if a family is no longer eligible for cash assistance under the plan due to the imposition of the 60-month period under subparagraph (A) or due to the imposition of a penalty under subparagraph (A)(ii) or (B)(ii) of section 403(e)(1)—

''(i) for purposes of determining eligibility for any other Federal or federally assisted program based on need, such family shall continue to be considered eligible for such cash assistance;

''(ii) for purposes of determining the amount of assistance under any other Federal or federally assisted program based on need, such family shall continue to be considered receiving such cash assistance; and

''(iii) the State may, at the option of the State, after having assessed the needs of the child or children of the family, provide for such needs with a voucher for such family—

''(I) determined on the same basis as the State would provide assistance under the State plan to such a family with 1 less individual,

''(II) designed appropriately to pay third parties for shelter, goods, and services received by the child or children, and

''(III) payable directly to such third parties.

''(2) TREATMENT OF INTERSTATE MIGRANTS.—The State plan may apply to a category of families the rules for such category under a plan of another State approved under this part, if a family in such category has moved to the State from the other State and has resided in the State for less than 12 months.

''(3) INDIVIDUALS ON OLD-AGE ASSISTANCE OR SSI INELIGIBLE FOR TEMPORARY EMPLOYMENT ASSISTANCE.—The State plan shall provide that no assistance shall be furnished any individual under the plan with respect to any period with respect to which such individual is receiving old-age assistance under the State plan approved under section 102 of title I or supplemental security income under title XVI.

''(4) CHILDREN FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE.—A child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a needy child under this part, and such child's income and resources shall be disregarded in determining the eligibility of the family of such child for temporary employment assistance.

''(5) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—The State plan shall provide that no assistance will be furnished any individual under the plan during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits or services simultaneously from 2 or more States under programs that are funded under this part, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

''(6) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

''(A) IN GENERAL.—The State plan shall provide that no assistance will be furnished any individual under the plan for any period if during such period the State agency has knowledge that such individual is—

''(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

''(ii) violating a condition of probation or parole imposed under Federal or State law.

''(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Notwithstanding any other provision of law, the State plan shall provide that the State shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of assistance under the plan, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

''(i) such recipient—

''(I) is described in clause (i) or (ii) of subparagraph (A); or

''(II) has information that is necessary for the officer to conduct the officer's official duties; and

''(ii) the location or apprehension of the recipient is within such officer's official duties.

''(d) DETERMINATION OF ELIGIBILITY.—

''(1) DETERMINATION OF NEED.—The State plan shall provide that the State agency take into consideration any income and resources of any individual the State determines should be considered in determining the need of the child or relative claiming temporary employment assistance, subject to section 407.

''(2) RESOURCE AND INCOME DETERMINATION.—In determining the total resources and income of the family of any needy child, the State plan shall provide the following:

''(A) RESOURCES.—The State's resource limit, including a description of the policy determined by the State regarding any exclusion allowed for vehicles owned by family members, resources set aside for future needs of a child, individual development accounts, or other policies established by the State to encourage savings.

''(B) FAMILY INCOME.—The extent to which earned or unearned income is disregarded in determining eligibility for, and amount of, assistance.

''(C) CHILD SUPPORT.—The State's policy, if any, for determining the extent to which child support received in excess of $50 per month on behalf of a member of the family is disregarded in determining eligibility for, and the amount of, assistance.

''(D) CHILD'S EARNINGS.—The treatment of earnings of a child living in the home.

''(E) EARNED INCOME TAX CREDIT.—The State agency shall disregard any refund of Federal income taxes made to a family receiving temporary employment assistance by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) and any payment made to such a family by an employer under section 3507 of such Code (relating to advance payment of earned income credit).

''(3) VERIFICATION SYSTEM.—The State plan shall provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137.

''SEC. 403. INDIVIDUAL RESPONSIBILITY PLAN.

''(a) ASSESSMENT.—The State agency responsible for administering the State plan shall make an initial assessment of the skills, prior work experience, and employability of each applicant for, or recipient of, assistance under the State plan who—

''(1) has attained 18 years of age; or

''(2) has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

''(b) INDIVIDUAL RESPONSIBILITY PLANS.—

''(1) IN GENERAL.—On the basis of the assessment made under subsection (a) with respect to an individual, the State agency, in consultation with the individual, shall develop an individual responsibility plan for the individual, which—

''(A) shall provide that participation by the individual in job search activities shall be a condition of eligibility for assistance under the State plan approved under part A, except during any period for which the individual is employed full-time in an unsubsidized job in the private sector;

''(B) sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;

''(C) sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;

''(D) may require that the individual enter the State program established under part F, if the caseworker determines that the individual will need education, training, job placement assistance, wage enhancement, or other services to become employed in the private sector;

''(E) shall provide that the individual must—

''(i) assign to the State any rights to support from any other person the individual may have in such individual's own behalf or in behalf of any other family member for whom the individual is applying for or receiving assistance; and

''(ii) cooperate with the State—

''(I) in establishing the paternity of a child born out of wedlock with respect to whom assistance is claimed, and

''(II) in obtaining support payments for the individual and for a child with respect to whom such assistance is claimed, or in obtaining any other payments or property due the individual or the child,

unless (in either case) the individual is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf assistance is claimed.

''(F) to the greatest extent possible shall be designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;

''(G) shall describe what services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and

''(H) at the option of the State, may require the individual to undergo appropriate substance abuse treatment.

''(2) TIMING.—The State agency shall comply with paragraph (1) with respect to an individual—

''(A) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of assistance under the State plan approved under this part; or

''(B) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.

''(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—The State shall inform all applicants for and recipients of assistance under the State plan approved under this part of all available services under the State plan for which they are eligible.

''(d) REQUIREMENT THAT RECIPIENTS ENTER THE WORK FIRST PROGRAM.—

''(1) IN GENERAL.—Beginning with fiscal year 2004, the State shall place recipients of assistance under the State plan approved under this part, who have not become employed in the private sector within 1 year after signing an individual responsibility plan, in the first available slot in the State program established under part F, except as provided in paragraph (2).

''(2) EXCEPTIONS.—A state may not be required to place a recipient of such assistance in the State program established under part F if the recipient—

''(A) is ill, incapacitated, or of advanced age;

''(B) has not attained 18 years of age;

''(C) is caring for a child or parent who is ill or incapacitated; or

''(D) is enrolled in school or in educational or training programs that will lead to private sector employment.

''(e) PENALTIES.—

''(1) STATE NOT OPERATING A WORK FIRST OR WORKFARE PROGRAM.—In the case of a State that is not operating a program under part F or G:

''(A) FAILURE TO COMPLY WITH INDIVIDUAL RESPONSIBILITY PLAN OR AGREEMENT OF MUTUAL RESPONSIBILITY.—

''(i) PROGRESSIVE REDUCTIONS IN ASSISTANCE FOR 1ST AND 2ND FAILURES.—The amount of assistance otherwise to be provided under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan (or, if the State has established a program under subpart 1 of part F and the individual is required to participate in the program, an agreement of mutual responsibility) signed by the individual (other than by reason of conduct described in paragraph (2)) shall be reduced by—

''(I) 33 percent for the 1st such act of noncompliance; or

''(II) 66 percent for the 2nd such act of noncompliance.

''(ii) DENIAL OF ASSISTANCE FOR 3RD FAILURE.—In the case of the 3rd such act of noncompliance, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

''(iii) ACTS OF NONCOMPLIANCE.—For purposes of this paragraph, a 1st act of noncompliance by an individual continues for more than 1 calendar month shall be considered a 2nd act of noncompliance, and a 2nd act of noncompliance that continues for more than 3 calendar months shall be considered a 3rd act of noncompliance.

''(B) DENIAL OF ASSISTANCE TO ADULTS REFUSING TO WORK, LOOK FOR WORK, OR ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—

''(i) REFUSAL TO WORK OR LOOK FOR WORK.—If an unemployed individual who has attained 18 years of age refuses to work or look for work—

''(I) in the case of the 1st such refusal, assistance under the State plan approved under this part shall not be payable with respect to the individual until the later of—

''(aa) a period of not less than 6 months after the date of the first such refusal; or

''(bb) the first date the individual agrees to work or look for work; or

''(II) in the case of the 2nd such refusal, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

''(ii) REFUSAL TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—If an unemployed individual who has attained 18 years of age refuses to accept a bona fide offer of employment, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

''(2) OTHER STATES.—In the case of any other State, the State shall reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

''SEC. 404. PAYMENT OF ASSISTANCE.

''(a) STANDARDS OF ASSISTANCE.—The State plan shall specify standards of assistance, including—

''(1) the composition of the unit for which assistance will be provided;

''(2) a standard, expressed in money amounts, to be used in determining the need of applicants and recipients;

''(3) a standard, expressed in money amounts, to be used in determining the amount of the assistance payment; and

''(4) the methodology to be used in determining the payment amount received by assistance units.

''(b) LEVEL OF ASSISTANCE.—Except as otherwise provided in this title, the State plan shall provide that—

''(1) the determination of need and the amount of assistance for all applicants and recipients shall be made on an objective and equitable basis; and

''(2) families of similar composition with similar needs and circumstances shall be treated similarly.

''(c) CORRECTION OF PAYMENTS.—The State plan shall provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of assistance under such plan, including the request for Federal tax refund intercepts as provided under section 416.

''(d) OPTIONAL VOLUNTARY DIVERSION PROGRAM.—The State plan shall, at the option of the State, and in such part or parts of the State as the State may select, provide that—

''(1) upon the recommendation of the caseworker who is handling the case of a family eligible for assistance under the State plan, the State shall, in lieu of any other assistance under the State plan to the family during a time period of not more than 3 months, make a lump-sum payment to the family for the time period in an amount not to exceed—

''(A) the value of the monthly benefits that would otherwise be provided to the family under the State plan; multiplied by

''(B) the number of months in the time period;

''(2) a lump-sum payment pursuant to subparagraph (A) shall not be made more than once to any family; and

''(3) if, during a time period for which the State has made a lump-sum payment to a family pursuant to subparagraph (A), the family applies for and (but for the lump-sum payment) would be eligible under the State plan for a monthly benefit that is greater than the value of the monthly benefit which would have been provided to the family under the State plan at the time of the calculation of the lump sum payment, then, notwithstanding subparagraph (A), the State shall, for that part of the time period that remains after the family becomes eligible for the greater monthly benefit, provide monthly benefits to the family in an amount not to exceed—

''(A) the amount by which the value of the greater monthly benefit exceeds the value of the former monthly benefit, multiplied by the number of months in the time period; divided by

''(B) the whole number of months remaining in the time period.''.

''SEC. 405. OTHER PROGRAMS.

''(a) WORK FIRST PROGRAM; WORKFARE OR JOB PLACEMENT VOUCHER PROGRAM.—The State plan shall provide that the State has in effect and operation—

''(1) a work first program that meets the requirements of part F; and

''(2) a workfare program that meets the requirements of part G, or a job placement voucher program that meets the requirements of part H, but not both.

''(b) PROVISION OF POSITIONS AND VOUCHERS.—The State plan shall provide that the State shall provide a position in the workfare program established by the State under part G, or a job placement voucher under the job placement voucher program established by the State under part H to any individual who, by reason of section 487(b), is prohibited from participating in the work first program operated by the State, and shall not provide such a position or such a voucher to any other individual.

''(c) PROVISION OF CASE MANAGEMENT SERVICES.—The State plan shall provide that the State shall provide to participants in such programs such case management services as are necessary to ensure the integrated provision of benefits and services under such programs.

''(d) STATE CHILD SUPPORT AGENCY.—The State plan shall—

''(1) provide that the State has in effect a plan approved under part D and operates a child support program in substantial compliance with such plan;

''(2) provide that the State agency administering the plan approved under this part shall be responsible for assuring that—

''(A) the benefits and services provided under plans approved under this part and part D are furnished in an integrated manner, including coordination of intake procedures with the agency administering the plan approved under part D;

''(B) all applicants for, and recipients of, temporary employment assistance are encouraged, assisted, and required (as provided under section 403(b)(1)(E)(ii)) to cooperate in the establishment and enforcement of paternity and child support obligations and are notified about the services available under the State plan approved under part D; and

''(C) procedures require referral of paternity and child support enforcement cases to the agency administering the plan approved under part D not later than 10 days after the application for temporary employment assistance; and

''(3) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency established pursuant to part D of the furnishing of temporary employment assistance with respect to a child who has been deserted or abandoned by a parent (including a child born out-of-wedlock without regard to whether the paternity of such child has been established).

''(e) CHILD WELFARE SERVICES AND FOSTER CARE AND ADOPTION ASSISTANCE.—The State plan shall provide that the State has in effect—

''(1) a State plan for child welfare services approved under part B; and

''(2) a State plan for foster care and adoption assistance approved under part E,

and operates such plans in substantial compliance with the requirements of such parts.

''(f) REPORT OF CHILD ABUSE, ETC.—The State plan shall provide that the State agency will—

''(1) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving assistance under the State plan under circumstances which indicate that the child's health or welfare is threatened thereby; and

''(2) provide such information with respect to a situation described in paragraph (1) as the State agency may have.

''(g) AVAILABILITY OF ASSISTANCE IN RURAL AREAS OF STATE.—The State plan shall consider and address the needs of rural areas in the State to ensure that families in such areas receive assistance to become self-sufficient.

''(h) FAMILY PRESERVATION.—

''(1) IN GENERAL.—The State plan shall describe the efforts by the State to promote family preservation and stability, including efforts—

''(A) to encourage fathers to stay home and be a part of the family;

''(B) to keep families together to the extent possible; and

''(C) except to the extent provided in paragraph (2), to treat 2-parent families and 1-parent families equally with respect to eligibility for assistance.

''(2) MAINTENANCE OF TREATMENT.—The State may impose eligibility limitations relating specifically to 2-parent families to the extent such limitations are no more restrictive than such limitations in effect in the State plan in fiscal year 1995.

''SEC. 406. ADMINISTRATIVE REQUIREMENTS FOR STATE PLAN.

''(a) STATEWIDE PLAN.—The State plan shall be in effect in all political subdivisions of the State, and, if administered by the subdivisions, be mandatory upon such subdivisions. If such plan is not administered uniformly throughout the State, the plan shall describe the administrative variations.

''(b) SINGLE ADMINISTRATING AGENCY.—The State plan shall provide for the establishment or designation of a single State agency to administer the plan or supervise the administration of the plan.

''(c) FINANCIAL PARTICIPATION.—The State plan shall provide for financial participation by the State in the same manner and amount as such State participates under title XIX, except that with respect to the sums expended for the administration of the State plan, the percentage shall be 50 percent.

''(d) REASONABLE PROMPTNESS.—The State plan shall provide that all individuals wishing to make application for temporary employment assistance shall have opportunity to do so, and that such assistance be furnished with reasonable promptness to all eligible individuals.

''(e) AUTOMATED DATA PROCESSING SYSTEM.—The State plan shall, at the option of the State, provide for the establishment and operation of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan approved under this part, so as—

''(1) to control and account for—

''(A) all the factors in the total eligibility determination process under such plan for assistance, and

''(B) the costs, quality, and delivery of payments and services furnished to applicants for and recipients of assistance; and

''(2) to notify the appropriate officials for child support, food stamp, and social service programs, and the medical assistance program approved under title XIX, whenever a recipient becomes ineligible for such assistance or the amount of assistance provided to a recipient under the State plan is changed.

''(f) DISCLOSURE OF INFORMATION.—The State plan shall provide for safeguards which restrict the use or disclosure of information concerning applicants or recipients.

''(g) DETECTION OF FRAUD.—The State plan shall provide, in accordance with regulations issued by the Secretary, for appropriate measures to detect fraudulent applications for temporary employment assistance before the establishment of eligibility for such assistance.

''Subpart 2—Administrative Provisions

''SEC. 411. APPROVAL OF PLAN.

''(a) IN GENERAL.—The Secretary shall approve a State plan which fulfills the requirements under subpart 1 within 120 days of the submission of the plan by the State to the Secretary.

''(b) DEEMED APPROVAL.—If a State plan has not been rejected by the Secretary during the period specified in subsection (a), the plan shall be deemed to have been approved.

''SEC. 412. COMPLIANCE.

In the case of any State plan for temporary employment assistance which has been approved under section 411, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by subpart 1 to be included in the plan, the Secretary shall notify such State agency that further payments will not be made to the State (or in the Secretary's discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until the Secretary is so satisfied the Secretary shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

''SEC. 413. PAYMENTS TO STATES.

''(a) COMPUTATION OF AMOUNT.—Subject to section 412, from the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for temporary employment assistance, for each quarter, beginning with the quarter commencing October 1, 1996, an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State under such plan.

''(b) METHOD OF COMPUTATION AND PAYMENT.—The method of computing and paying such amounts shall be as follows:

''(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on—

''(A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived;

''(B) records showing the number of needy children in the State; and

''(C) such other information as the Secretary may find necessary.

''(2) The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services—

''(A) reduced or increased, as the case may be, by any sum by which the Secretary of Health and Human Services finds that the estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter;

''(B) reduced by a sum equivalent to the pro rata share to which the Federal Government is equitably entitled, as determined by the Secretary of Health and Human Services, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to temporary employment assistance furnished under the State plan; and

''(C) reduced by such amount as is necessary to provide the appropriate reimbursement to the Federal Government that the State is required to make under section 457 out of that portion of child support collections retained by the State pursuant to such section,

except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health and Human Services for such prior quarter.

''(c) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

''SEC. 414. QUALITY ASSURANCE, DATA COLLECTION, AND REPORTING SYSTEM.

''(a) QUALITY ASSURANCE.—

''(1) IN GENERAL.—Under the State plan, a quality assurance system shall be developed based upon a collaborative effort involving the Secretary, the State, the political subdivisions of the State, and assistance recipients, and shall include quantifiable program outcomes related to self sufficiency in the categories of welfare-to-work, payment accuracy, and child support.

''(2) MODIFICATIONS TO SYSTEM.—As deemed necessary, but not more often than every 2 years, the Secretary, in consultation with the State, the political subdivisions of the State, and assistance recipients, shall make appropriate changes in the design and administration of the quality assurance system, including changes in benchmarks, measures, and data collection or sampling procedures.

''(b) DATA COLLECTION AND REPORTING.—

''(1) IN GENERAL.—The State plan shall provide for a quarterly report to the Secretary regarding the data described in paragraphs (2) and (3) and such additional data needed for the quality assurance system. The data collection and reporting system under this subsection shall promote accountability, continuous improvement, and integrity in the State plans for temporary employment assistance and Work First.

''(2) DISAGGREGATED DATA.—The State shall collect the following data items on a monthly basis from disaggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

''(A) The age of adults and children (including pregnant women).

''(B) Marital or familial status of cases: married (2-parent family), widowed, divorced, separated, or never married; or child living with other adult relative.

''(C) The gender, race, educational attainment, work experience, disability status (whether the individual is seriously ill, incapacitated, or caring for a disabled or incapacitated child) of adults.

''(D) The amount of cash assistance and the amount and reason for any reduction in such assistance. Any other data necessary to determine the timeliness and accuracy of benefits and welfare diversions.

''(E) Whether any member of the family receives benefits under any of the following:

''(i) Any housing program.

''(ii) The food stamp program under the Food Stamp Act of 1977.

''(iii) The Head Start programs carried out under the Head Start Act.

''(iv) Any job training program.

''(F) The number of months since the most recent application for assistance under the plan.

''(G) The total number of months for which assistance has been provided to the families under the plan.

''(H) The employment status, hours worked, and earnings of individuals while receiving assistance, whether the case was

closed due to employment, and other data needed to meet the work performance rate.

''(I) Status in Work First and workfare, including the number of hours an individual participated and the component in which the individual participated.

''(J) The number of persons in the assistance unit and their relationship to the youngest child. Nonrecipients in the household and their relationship to the youngest child.

''(K) Citizenship status.

''(L) Shelter arrangement.

''(M) Unearned income (not including temporary employment assistance), such as child support, and assets.

''(N) The number of children who have a parent who is deceased, incapacitated, or unemployed.

''(O) Geographic location.

''(3) AGGREGATED DATA.—The State shall collect the following data items on a monthly basis from aggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

''(A) The number of adults receiving assistance.

''(B) The number of children receiving assistance.

''(C) The number of families receiving assistance.

''(D) The number of assistance units who had their grants reduced or terminated and the reason for the reduction or termination, including sanction, employment, and meeting the time limit for assistance).

''(E) The number of applications for assistance; the number approved and the number denied and the reason for denial.

''(4) LONGITUDINAL STUDIES.—The State shall submit selected data items for a cohort of individuals who are tracked over time. This longitudinal sample shall be used for selected data items described in paragraphs (2) and (3), as determined appropriate by the Secretary.

''(c) ADDITIONAL DATA.—The report required by subsection (b) for a fiscal year quarter shall also include the following:

''(1) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—A statement of—

''(A) the percentage of the Federal funds paid to the State under this part for the fiscal year quarter that are used to cover administrative costs or overhead; and

''(B) the total amount of State funds that are used to cover such costs or overhead.

''(2) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—A statement of the total amount expended by the State during the fiscal year quarter on programs for needy families, with the amount spent on the program under this part, and the purposes for which such amount was spent, separately stated.

''(3) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The number of noncustodial parents in the State who participated in work activities during the fiscal year quarter.

''(4) REPORT ON CHILD SUPPORT COLLECTED.—The total amount of child support collected by the State agency administering the State plan under part D on behalf of a family receiving assistance under this part.

''(5) REPORT ON CHILD CARE.—The total amount expended by the State for child care under this part, along with a description of the types of child care provided, such as child care provided in the case of a family that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, or in the case of a family that is not receiving assistance under this part but would be at risk of becoming eligible for such assistance if child care was not provided.

''(6) REPORT ON TRANSITIONAL SERVICES.—The total amount expended by the State for providing transitional services to a family that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, along with a description of such services.

''(d) COLLECTION PROCEDURES.—The Secretary shall provide case sampling plans and data collection procedures as deemed necessary to make statistically valid estimates of plan performance.

''(e) VERIFICATION.—The Secretary shall develop and implement procedures for verifying the quality of the data submitted by the State, and shall provide technical assistance, funded by the compliance penalties imposed under section 412, if such data quality falls below acceptable standards.

''SEC. 415. COMPILATION AND REPORTING OF DATA.

''(a) CURRENT PROGRAMS.—The Secretary shall, on the basis of the Secretary's review of the reports received from the States under section 414, compile such data as the Secretary believes necessary, and from time to time, publish the findings as to the effectiveness of the programs developed and administered by the States under this part. The Secretary shall annually report to the Congress on the programs developed and administered by each State under this part.

''(b) RESEARCH, DEMONSTRATION AND EVALUATION.—Of the amount specified under section 413(a), an amount equal to 0.25 percent is authorized to be expended by the Secretary to support the following types of research, demonstrations, and evaluations:

''(1) STATE-INITIATED RESEARCH.—States may apply for grants to cover 90 percent of the costs of self-evaluations of programs under State plans approved under this part.

''(2) DEMONSTRATIONS.—

''(A) IN GENERAL.—The Secretary may implement and evaluate demonstrations of innovative and promising strategies to—

''(i) improve child well-being through reductions in illegitimacy, teen pregnancy, welfare dependency, homelessness, and poverty;

''(ii) test promising strategies by nonprofit and for-profit institutions to increase employment, earning, child support payments, and self-sufficiency with respect to temporary employment assistance clients under State plans; and

''(iii) foster the development of child care.

''(B) ADDITIONAL PARAMETERS.—Demonstrations implemented under this paragraph—

''(i) may provide one-time capital funds to establish, expand, or replicate programs;

''(ii) may test performance-based grant to loan financing in which programs meeting performance targets receive grants while programs not meeting such targets repay funding on a pro-rated basis; and

''(iii) should test stategies in multiple States and types of communities.

''(3) FEDERAL EVALUATIONS.—

''(A) IN GENERAL.—The Secretary shall conduct research on the effects, benefits, and costs of different approaches to operating welfare programs, including an implementation study based on a representative sample of States and localities, documenting what policies were adopted, how such policies were implemented, the types and mix of services provided, and other such factors as the Secretary deems appropriate.

''(B) RESEARCH ON RELATED ISSUES.—The Secretary shall also conduct research on issues related to the purposes of this part, such as strategies for moving welfare recipients into the workforce quickly, reducing teen pregnancies and out-of-wedlock births, and providing adequate child care.

''(C) STATE REIMBURSEMENT.—The Secretary may reimburse a State for any research-related costs incurred pursuant to research conducted under this paragraph.

''(D) USE OF RANDOM ASSIGNMENT.—Evaluations authorized under this paragraph should use random assignment to the maximum extent feasible and appropriate.

''(4) REGIONAL INFORMATION CENTERS.—

''(A) IN GENERAL.—The Secretary shall establish not less than 5, nor more than 7 regional information centers located at major research universities or consortiums of universities to ensure the effective implementation of welfare reform and the efficient dissemination of information about innovations, evaluation outcomes, and training initiatives.

''(B) CENTER RESPONSIBILITIES.—The Centers shall have the following functions:

''(i) Disseminate information about effective income support and related programs, along with suggestions for the replication of such programs.

''(ii) Research the factors that cause and sustain welfare dependency and poverty in the regions served by the respective centers.

''(iii) Assist the States in the region formulate and implement innovative programs and improvements in existing programs that help clients move off welfare and become productive citizens.

''(iv) Provide training as appropriate to staff of State agencies to enhance the ability of the agencies to successfully place Work First clients in productive employment or self-employment.

''(C) CENTER ELIGIBILITY TO PERFORM EVALUATIONS.—The Centers may compete for demonstration and evaluation contracts developed under this section.

''SEC. 416. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

''(a) IN GENERAL.—Upon receiving notice from a State agency administering a plan approved under this part that a named individual has been overpaid under the State plan approved under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, the Secretary shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

''(b) REGULATIONS.—The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, that provide—

''(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals—

''(A) who are no longer receiving temporary employment assistance under the State plan approved under this part,

''(B) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved; and

''(C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from the income tax refunds of such individuals;

''(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under subsection (a); and

''(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the

specific provisions of this section, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support.''.

(b) PAYMENTS TO PUERTO RICO.—Section 1108(a)(1) (42 U.S.C. 1308(a)(1)) is amended—

(1) in subparagraph (F), by striking ''or''; and

(2) by striking subparagraph (G) and inserting the following:

''(G) $82,000,000 with respect to each of fiscal years 1989 through 1995, or

''(H) $102,500,000 with respect to the fiscal year 1996 and each fiscal year thereafter;''.

(c) CONFORMING AMENDMENTS RELATING TO COLLECTION OF OVERPAYMENTS.—

(1) Section 6402 of the Internal Revenue Code of 1986 (relating to authority to make credits or refunds) is amended—

(A) in subsection (a), by striking ''(c) and (d)'' and inserting ''(c), (d), and (e)'';

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

''(g) COLLECTION OF OVERPAYMENTS UNDER TITLE IV–A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 416 of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).''.

(2) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking ''section 464 or 1137 of the Social Security Act'' and inserting ''section 416, 464, or 1137 of the Social Security Act''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1996.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the requirements imposed by the amendment made by subsection (a), the State shall not be regarded as failing to comply with the requirements of such amendment before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

Subtitle B—Make Work Pay

SEC. 9201. TRANSITIONAL MEDICAID BENEFITS.

(a) STATE OPTION OF EXTENSION OF MEDICAID ENROLLMENT FOR FORMER AFDC RECIPIENTS FOR 1 ADDITIONAL YEAR.—

(1) IN GENERAL.—Section 1925(b)(1) (42 U.S.C. 1396r–6(b)(1)) is amended by striking the period at the end and inserting the following: '', and that the State may, at its option, offer to each such family the option of extending coverage under this subsection for any of the first 2 succeeding 6-month periods, in the same manner and under the same conditions as the option of extending coverage under this subsection for the first succeeding 6-month period.''.

(2) CONFORMING AMENDMENTS.—Section 1925(b) (42 U.S.C. 1396r–6(b)) is amended—

(A) in the heading, by striking ''EXTENSION'' and inserting ''EXTENSIONS'';

(B) in the heading of paragraph (1), by striking ''REQUIREMENT'' and inserting ''IN GENERAL'';

(C) in paragraph (2)(B)(ii)—

(i) in the heading, by striking ''PERIOD'' and inserting ''PERIODS'', and

(ii) by striking ''in the period'' and inserting ''in any of the 6-month periods'';

(D) in paragraph (3)(A), by striking ''the 6-month period'' and inserting ''any 6-month period'';

(E) in paragraph (4)(A), by striking ''the extension period'' and inserting ''any extension period''; and

(F) in paragraph (5)(D)(i), by striking ''is a 3-month period'' and all that follows and inserting the following: ''is, with respect to a particular 6-month additional extension period provided under this subsection, a 3-month period beginning with the 1st or 4th month of such extension period.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after October 1, 1997, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9202. NOTICE OF AVAILABILITY REQUIRED TO BE PROVIDED TO APPLICANTS AND FORMER RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE, FOOD STAMPS, AND MEDICAID.

(a) TEMPORARY FAMILY ASSISTANCE.—Section 406, as added by the amendment made by section 9101(a) of this Act, is amended by adding at the end the following:

''(h) NOTICE OF AVAILABILITY OF EITC.—The State plan shall provide that the State agency referred to in subsection (b) must provide written notice of the existence and availability of the earned income credit under section 32 of the Internal Revenue Code of 1986 to—

''(1) any individual who applies for assistance under the State plan, upon receipt of the application; and

''(2) any individual whose assistance under the State plan (or under the State plan approved under part A of this title (as in effect before the effective date of title IX of the Omnibus Budget Reconciliation Act of 1995) is terminated, in the notice of termination of benefits.''.

(b) FOOD STAMPS.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24) by striking ''and'' at the end;

(2) in paragraph (25) by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (25) the following:

''(26) that whenever a household applies for food stamp benefits, and whenever such benefits are terminated with respect to a household, the State agency shall provide to each member of such household notice of—

''(A) the existence of the earned income tax credit under section 32 of the Internal Revenue Code of 1986; and

''(B) the fact that such credit may be applicable to such member.''.

(c) MEDICAID.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking ''and'' at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting ''; and''; and

(3) by inserting after paragraph (62) the following new paragraph:

''(63) provide that the State shall provide notice of the existence and availability of the earned income tax credit under section 32 of the Internal Revenue Code of 1986 to each individual applying for medical assistance under the State plan and to each individual whose eligibility for medical assistance under the State plan is terminated.''.

SEC. 9203. NOTICE OF AVAILABILITY OF EARNED INCOME TAX CREDIT AND DEPENDENT CARE TAX CREDIT TO BE INCLUDED ON W–4 FORM.

(a) IN GENERAL.—Section 11114 of the Omnibus Budget Reconciliation Act of 1990 (26 U.S.C. 21 note), relating to program to increase public awareness, is amended by adding at the end the following new sentence: ''Such means shall include printing a notice of the availability of such credits on the forms used by employees to determine the proper number of withholding exemptions under chapter 24 of such Code.''

SEC. 9204. ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT THROUGH STATE DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Section 3507 of the Internal Revenue Code of 1986 (relating to the advance payment of the earned income tax credit) is amended by adding at the end the following:

''(g) STATE DEMONSTRATIONS.—

''(1) IN GENERAL.—In lieu of receiving earned income advance amounts from an employer under subsection (a), a participating resident shall receive advance earned income payments from a responsible State agency pursuant to a State Advance Payment Program that is designated pursuant to paragraph (2).

''(2) DESIGNATIONS.—

''(A) IN GENERAL.—From among the States submitting proposals satisfying the requirements of paragraph (3), the Secretary (in consultation with the Secretary of Health and Human Services) may designate not more than 4 State Advance Payment Demonstrations. States selected for the demonstrations may have, in the aggregate, no more than 5 percent of the total number of households participating in the program under the Food Stamp program in the immediately preceding fiscal year. Administrative costs of a State in conducting a demonstration under this section may be included for matching under section 413(a) of the Social Security Act and section 16(a) of the Food Stamp Act of 1977.

''(B) WHEN DESIGNATION MAY BE MADE.—Any designation under this paragraph shall be made no later than December 31, 1996.

''(C) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

''(i) IN GENERAL.—Designations made under this paragraph shall be effective for advance earned income payments made after December 31, 1996, and before January 1, 2000.

''(ii) SPECIAL RULES.—

''(I) REVOCATION OF DESIGNATIONS.—The Secretary may revoke any designation made under this paragraph if the Secretary determines that the State is not complying substantially with the proposal described in paragraph (3) submitted by the State.

''(II) AUTOMATIC TERMINATION OF DESIGNATIONS.—Any failure by a State to comply with the reporting requirements described in paragraphs (3)(F) and (3)(G) shall have the effect of immediately terminating the designation under this paragraph and rendering paragraph (5)(A)(ii) inapplicable to subsequent payments.

''(3) PROPOSALS.—No State may be designated under paragraph (2) unless the State's proposal for such designation—

''(A) identifies the responsible State agency,

''(B) describes how and when the advance earned income payments will be made by that agency, including a description of any other State or Federal benefits with which such payments will be coordinated,

''(C) describes how the State will obtain the information on which the amount of advance earned income payments made to each participating resident will be determined in accordance with paragraph (4),

''(D) describes how State residents who will be eligible to receive advance earned income payments will be selected, notified of the opportunity to receive advance earned income payments from the responsible State agency, and given the opportunity to elect to participate in the program,

''(E) describes how the State will verify, in addition to receiving the certifications and statement described in paragraph (7)(D)(iv), the eligibility of participating residents for the earned income tax credit,

''(F) commits the State to furnishing to each participating resident by January 31 of each year a written statement showing—

''(i) the name and taxpayer identification number of the participating resident, and

''(ii) the total amount of advance earned income payments made to the participating resident during the prior calendar year,

''(G) commits the State to furnishing to the Secretary by December 1 of each year a written statement showing the name and taxpayer identification number of each participating resident,

''(H) commits the State to treat any advance earned income payments as described in paragraph (5) and any repayments of excessive advance earned income payments as described in paragraph (6),

''(I) commits the State to assess the development and implementation of its State Advance Payment Program, including an agreement to share its findings and lessons with other interested States in a manner to be described by the Secretary, and

''(J) is submitted to the Secretary on or before June 30, 1996.

''(4) AMOUNT AND TIMING OF ADVANCE EARNED INCOME PAYMENTS.—

''(A) AMOUNT.—

''(i) IN GENERAL.—The method for determining the amount of advance earned income payments made to each participating resident shall conform to the fullest extent possible with the provisions of subsection (c).

''(ii) SPECIAL RULE.—A State may, at its election, apply the rules of subsection (c)(2)(B) by substituting 'between 60 percent and 75 percent of the credit percentage in effect under section 32(b)(1) for an individual with the corresponding number of qualifying children' for '60 percent of the credit percentage in effect under section 32(b)(1) for such an eligible individual with 1 qualifying child' in clause (i) and 'the same percentage (as applied in clause (i))' for '60 percent' in clause (ii).

''(B) TIMING.—The frequency of advance earned income payments may be determined on the basis of the payroll periods of participating residents, on a single statewide schedule, or on any other reasonable basis prescribed by the State in its proposal; however, in no event may advance earned income payments be made to any participating resident less frequently than on a calendar-quarter basis.

''(5) PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AND FICA TAXES.—

''(A) IN GENERAL.—For purposes of this title, advance earned income payments during any calendar quarter—

''(i) shall neither be treated as a payment of compensation nor be included in gross income, and

''(ii) shall be treated as made out of—

''(I) amounts required to be deducted by the State and withheld for the calendar quarter by the State under section 3401 (relating to wage withholding),

''(II) amounts required to be deducted for the calendar quarter under section 3102 (relating to FICA employee taxes), and

''(III) amounts of the taxes imposed on the State for the calendar quarter under section 3111 (relating to FICA employer taxes),

as if the State had paid to the Secretary, on the day on which payments are made to participating residents, an amount equal to such payments.

''(B) IF ADVANCE PAYMENTS EXCEED TAXES DUE.—If for any calendar quarter the aggregate amount of advance earned income payments made by the responsible State agency under a State Advance Payment Program exceeds the sum of the amounts referred to in subparagraph (A)(ii) (without regard to paragraph (6)(A)), each such advance earned income payment shall be reduced by an amount which bears the same ratio to such excess as such advance earned income payment bears to the aggregate amount of all such advance earned income payments.

''(6) STATE REPAYMENT OF EXCESSIVE ADVANCE EARNED INCOME PAYMENTS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of an excessive advance earned income payment a State shall be treated as having deducted and withheld under section 3401 (relating to wage withholding), and as being required to pay to the United States, the repayment amount during the repayment calendar quarter.

''(B) EXCESSIVE ADVANCE EARNED INCOME PAYMENT.—For purposes of this section, the term 'excessive advance income payment' means that portion of any advance earned income payment that, when combined with other advance earned income payments previously made to the same participating resident during the same calendar year, exceeds the amount of earned income tax credit to which that participating resident is entitled under section 32 for that year.

''(C) REPAYMENT AMOUNT.—For purposes of this subsection, the term 'repayment amount' means an amount equal to 50 percent of the excess of—

''(i) excessive advance earned income payments made by a State during a particular calendar year, over

''(ii) the sum of—

''(I) 4 percent of all advance earned income payments made by the State during that calendar year, and

''(II) the excessive advance earned income payments made by the State during that calendar year that have been collected from participating residents by the Secretary.

''(D) REPAYMENT CALENDAR QUARTER.—For purposes of this subsection, the term 'repayment calendar quarter' means the second calendar quarter of the third calendar year beginning after the calendar year in which an excessive earned income payment is made.

''(7) DEFINITIONS.—For purposes of this subsection—

''(A) STATE ADVANCE PAYMENT PROGRAM.—The term 'State Advance Payment Program' means the program described in a proposal submitted for designation under paragraph (1) and designated by the Secretary under paragraph (2).

''(B) RESPONSIBLE STATE AGENCY.—The term 'responsible State agency' means the single State agency that will be making the advance earned income payments to residents of the State who elect to participate in a State Advance Payment Program.

''(C) ADVANCE EARNED INCOME PAYMENTS.—The term 'advance earned income payments' means an amount paid by a responsible State agency to residents of the State pursuant to a State Advance Payment Program.

''(D) PARTICIPATING RESIDENT.—The term 'participating resident' means an individual who—

''(i) is a resident of a State that has in effect a designated State Advance Payment Program,

''(ii) makes the election described in paragraph (3)(D) pursuant to guidelines prescribed by the State,

''(iii) certifies to the State the number of qualifying children the individual has, and

''(iv) provides to the State the certifications and statement described in subsections (b)(1), (b)(2), (b)(3), and (b)(4) (except that for purposes of this clause, the term 'any employer' shall be substituted for 'another employer' in subsection (b)(3)), along with any other information required by the State.''.

(b) TECHNICAL ASSISTANCE.—The Secretaries of the Treasury and Health and Human Services shall jointly ensure that technical assistance is provided to State Advance Payment Programs and that these programs are rigorously evaluated.

(c) ANNUAL REPORTS.—The Secretary shall issue annual reports detailing the extent to which—

(1) residents participate in the State Advance Payment Programs,

(2) participating residents file Federal and State tax returns,

(3) participating residents report accurately the amount of the advance earned income payments made to them by the responsible State agency during the year, and

(4) recipients of excessive advance earned income payments repay those amounts.

The report shall also contain an estimate of the amount of advance earned income payments made by each responsible State agency but not reported on the tax returns of a participating resident and the amount of excessive advance earned income payments.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing technical assistance described in subsection (b), preparing the reports described in subsection (c), and providing grants to States in support of designated State Advance Payment Programs, there are authorized to be appropriated in advance to the Secretary of the Treasury and the Secretary of Health and Human Services a total of $1,400,000 for fiscal years 1997 through 2000.

Subtitle C—Work First

SEC. 9301. WORK FIRST PROGRAM.

(a) ESTABLISHMENT AND OPERATION OF PROGRAM.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part F and inserting the following:

''Part F—Work First Program

''SEC. 481. STATE ROLE.

''(a) PROGRAM REQUIREMENTS.—Any State may establish and operate a work first program that meets the following requirements:

''(1) OBJECTIVE.—The objective of the program is for each program participant to find and hold a full-time unsubsidized paid job, and for this goal to be achieved in a cost-effective fashion.

''(2) METHOD.—The method of the program is to connect recipients of assistance under the State plan approved under part A with the private sector labor market as soon as possible and offer them the support and skills necessary to remain in the labor market. Each component of the program should be permeated with an emphasis on employment and with an understanding that minimum wage jobs are a stepping stone to more highly paid employment. The program shall provide recipients with education, training, job search and placement, wage supplementation, temporary subsidized jobs, or such other services that the State deems necessary to help a recipient obtain private sector employment.

''(3) JOB CREATION.—The creation of jobs, with an emphasis on private sector jobs, shall be a component of the program and shall be a priority for each State office with responsibilities under the program.

''(4) FORMS OF ASSISTANCE.—The State shall provide assistance to participants in the program in the form of education, training, job placement services (including vouchers for job placement services), work supplementation programs, temporary subsidized job creation, job counseling, assistance in establishing microenterprises, or other services to provide individuals with the support and skills necessary to obtain and keep employment in the private sector.

''(5) 2-YEAR LIMITATION ON PARTICIPATION.—The program shall comply with section 487(b).

''(6) AGREEMENTS OF MUTUAL RESPONSIBILITY.—

''(A) IN GENERAL.—The State agency shall develop an agreement of mutual responsibility for each program participant, which will be an individualized comprehensive plan, developed by the team and the participant, to move the participant into a full-time unsubsidized job. The agreement should detail the education, training, or skills that the individual will be receiving to obtain a full-time unsubsidized job, and the obligations of the individual.

''(B) HOURS OF PARTICIPATION REQUIREMENT.—The agreement shall provide that the individual shall participate in activities in accordance with the agreement for—

''(i) not fewer than 20 hours per week during fiscal years 1997 and 1998;

''(ii) not fewer than 25 hours per week during fiscal year 1999; and

''(iii) not fewer than 30 hours per week thereafter.

''(7) CASELOAD PARTICIPATION RATES.—The program shall comply with section 488.

''(8) NONDISPLACEMENT.—The program may not be operated in a manner that results in—

''(A) the displacement of a currently employed worker or position by a program participant;

''(B) the replacement of an employee who has been terminated with a program participant; or

''(C) the replacement of an individual who is on layoff from the same position given to a progrm participant or any equivalent position.

''(b) ANNUAL REPORTS.—

''(1) COMPLIANCE WITH PERFORMANCE MEASURES.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under section 488(c).

''(2) COMPLIANCE WITH PARTICIPATION RATES.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary a report on the participation rate of the State for the fiscal year.

''SEC. 482. REVAMPED JOBS PROGRAM.

''A State that establishes a program under this part may operate a program similar to the program known as the 'GAIN Program' that has been operated by Riverside County, California, under Federal law in effect immediately before the date this part first applies to the State of California.

''SEC. 483. USE OF PLACEMENT COMPANIES.

''(a) IN GENERAL.—A State that establishes a program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance.

''(b) REQUIRED CONTRACT TERMS.—Each contract entered into under this section with a company shall meet the following requirements:

''(1) PROVISION OF JOB READINESS AND SUPPORT SERVICES.—The contract shall require the company to provide, to any program participant who presents to the company a voucher issued under subsection (d) intensive personalized support and job readiness services designed to prepare the individual for employment and ensure the continued success of the individual in employment.

''(2) PAYMENTS.—

''(A) IN GENERAL.—The contract shall provide for payments to be made to the company with respect to each program participant who presents to the company a voucher issued under subsection (d).

''(B) STRUCTURE.—The contract shall provide for the majority of the amounts to be paid under the contract with respect to a program participant, to be paid after the company has placed the participant in a position of full-time employment and the participant has been employed in the position for such period of not less than 5 months as the State deems appropriate.

''(c) COMPETITIVE BIDDING REQUIRED.—Contracts under this section shall be awarded only after competitive bidding.

''(d) VOUCHERS.—The State shall issue a voucher to each program participant whose agreement of mutual responsibility provides for the use of placement companies under this section, indicating that the participant is eligible for the services of such a company.

''SEC. 484. TEMPORARY SUBSIDIZED JOB CREATION.

''A State that establishes a program under this part may establish a program similar to the program known as 'JOBS Plus' that has been operated by the State of Oregon under Federal law in effect immediately before the date this part first applies to the State of Oregon.

''SEC. 485. MICROENTERPRISE.

''(a) GRANTS AND LOANS TO NONPROFIT ORGANIZATIONS FOR THE PROVISION OF TECHNICAL ASSISTANCE, TRAINING, AND CREDIT TO LOW INCOME ENTREPRENEURS.—A State that establishes a program under this part may make grants and loans to nonprofit organizations to provide technical assistance, training, and credit to low income entrepreneurs for the purpose of establishing microenterprises.

''(b) MICROENTERPRISE DEFINED.—For purposes of this subsection, the term 'microenterprise' means a commercial enterprise which has 5 or fewer employees, 1 or more of whom owns the enterprise.

''SEC. 486. WORK SUPPLEMENTATION PROGRAM.

''(a) IN GENERAL.—A State that establishes a program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable under the State plan approved under part A to participants in the program and use the sums instead for the purpose of providing and subsidizing jobs for the participants (as described in subsection (c)(3)(A) and (B)), as an alternative to providing such assistance to the participants.

''(b) STATE FLEXIBILITY.—

''(1) Nothing in this part, or in any State plan approved under part A, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this section and section 484 (as in effect immediately before the date this part first applies to the State).

''(2) Notwithstanding any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this section.

''(3) Notwithstanding any other provision of law, a State operating a work supplementation program under this section may provide that the need standards in effect in those areas of the State in which the program is in operation may be different from the need standards in effect in the areas in which the program is not in operation, and the State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

''(4) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of assistance provided under the plan to different categories of recipients (as determined under paragraph (3)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under part A) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

''(5) In determining the amounts to be reserved and used for providing and subsidizing jobs under this section as described in subsection (a), the State may use a sampling methodology.

''(6) Notwithstanding any other provision of law, a State operating a work supplementation program under this section, may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

''(c) RULES RELATING TO SUPPLEMENTED JOBS.—

''(1) A work supplementation program operated by a State under this section may provide that any individual who is an eligible individual (as determined under paragraph (2)) shall take a supplemented job (as defined in paragraph (3)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for temporary employment assistance under part A except as limited by subsection (d).

''(2) For purposes of this section, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for assistance under an approved State plan if the State did not have a work supplementation program in effect.

''(3) For purposes of this subsection, a supplemented job is—

''(A) a job provided to an eligible individual by the State or local agency administering the State plan under part A; or

''(B) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by the State or local agency.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

''(d) COST LIMITATION.—The amount of the Federal payment to a State under section 413 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in the State under this section had received the maximum amount of assistance providable under the State plan to such a family with no income (without regard to adjustments under subsection (b) of this section) for the lesser of—

''(1) 9 months; or

''(2) the number of months in which the individual was employed in the program.

''(e) RULES OF INTERPRETATION.—

''(1) This section shall not be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom the State or local agency provides a job under the work supplementation program (or with respect to whom the State or local agency provides all or part of the wages paid to the individual by another entity under the program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under the program be provided employee status by the entity during the first 13 weeks the individual fills the position.

''(2) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

''(f) PRESERVATION OF MEDICAID ELIGIBILITY.—Any State that chooses to operate a work supplementation program under this section shall provide that any individual who participates in the program, and any child or relative of the individual (or other individual living in the same household as the individual) who would be eligible for assistance under the State plan approved under part A if the State did not have a work supplementation program, shall be considered individuals receiving assistance under the State plan approved under part A for purposes of eligibility for medical assistance under the State plan approved under title XIX.

''SEC. 487. PARTICIPATION RULES.

''(a) IN GENERAL.—Except as provided in subsection (b), a State that establishes a program under this part may require any individual receiving assistance under the State plan approved under part A to participate in the program.

''(b) 2-YEAR LIMITATION ON PARTICIPATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an individual may not participate in a State program established under this part if the individual has participated in the State program established under this part for 24 months after the date the individual first signed an agreement of mutual responsibility under this part, excluding any month during which the individual worked for an average of at least 25 hours per week in a private sector job.

''(2) AUTHORITY TO ALLOW REPEAT PARTICIPATION.—

''(A) IN GENERAL.—Subject to subparagraph (B) of this paragraph, a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

''(B) LIMITATION ON PERCENTAGE OF REPEAT PARTICIPANTS.—

''(i) IN GENERAL.—Except as provided in clause (ii) of this subparagraph, the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed—

''(I) 10 percent of the total number of individuals who participated in the State program established under this part or the State program established under part H during the immediately preceding program year; or

''(II) in the case of fiscal year 2004 or any succeeding fiscal year, 15 percent of such total number of individuals.

''(ii) AUTHORITY TO INCREASE LIMITATION.—

''(I) PETITION.—A State may request the Secretary to increase to not more than 15 percent the percentage limitation imposed by clause (i)(I) for a fiscal year before fiscal year 2004.

''(II) AUTHORITY TO GRANT REQUEST.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

''SEC. 488. CASELOAD PARTICIPATION RATES; PERFORMANCE MEASURES.

''(a) PARTICIPATION RATES.—

''(1) REQUIREMENT.—A State that operates a program under this part shall achieve a participation rate for the following fiscal years of not less than the following percentage:

''Fiscal year:	Percentage:
1997	20
1998	24
1999	28
2000	32
2001	36
2002	40
2003 or later	52.

''(2) PARTICIPATION RATE DEFINED.—

''(A) IN GENERAL.—As used in this subsection, the term 'participation rate' means, with respect to a State and a fiscal year, an amount equal to—

''(i) the average monthly number of individuals who, during the fiscal year, participate in the State program established under this part or (if applicable) part G or H; divided by

''(ii) the average monthly number of individuals who are not described in section 402(c)(1)(D) and for whom an individual responsibility plan is in effect under section 403 during the fiscal year.

''(B) SPECIAL RULE.—For each of the 1st 12 months after an individual ceases to receive assistance under a State plan approved under part A by reason of having become employed for more than 25 hours per week in an unsubsidized job in the private sector, the individual shall be considered to be participating in the State program established under this part, and to be an adult recipient of such assistance, for purposes of subparagraph (A).

''(3) STATE COMPLIANCE REPORTS.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary a report on the participation rate of the State for the fiscal year.

''(4) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

''(A) IN GENERAL.—If a State reports that the State has failed to achieve the participation rate required by paragraph (1) for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

''(B) SECOND CONSECUTIVE FAILURE.—Notwithstanding subparagraph (A), if a State fails to achieve the participation rate required by paragraph (1) for 2 consecutive fiscal years, the Secretary may—

''(i) require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G; and

''(ii) reduce by 5 percent the amount otherwise payable to the State under section 413.

''(b) PERFORMANCE STANDARDS.—The Secretary shall develop standards to be used to measure the effectiveness of the programs established under this part and part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment.

''(c) PERFORMANCE-BASED MEASURES.—

''(1) ESTABLISHMENT.—The Secretary shall, by regulation, establish measures of the effectiveness of the State programs established under this part and under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

''(2) ANNUAL COMPLIANCE REPORTS.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under paragraph (1).

''SEC. 489. FEDERAL ROLE.

''(a) APPROVAL OF STATE PLANS.—

''(1) IN GENERAL.—Within 60 days after the date a State submits to the Secretary a plan that provides for the establishment and operation of a work first program that meets the requirements of section 481, the Secretary shall approve the plan.

''(2) AUTHORITY TO EXTEND APPROVAL DEADLINE.—The 60-day deadline established in paragraph (1) with respect to a State may be extended in accordance with an agreement between the Secretary and the State.

''(b) PERFORMANCE-BASED MEASURES.—The Secretary shall, by regulation, establish measures of the effectiveness of the State program established under this part and (if the State has established a program under part G) the State program established under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

''(c) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

''(1) IN GENERAL.—If a State reports that the State has failed to achieve the participation rate required by section 488 for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

''(2) SECOND CONSECUTIVE FAILURE.—Notwithstanding paragraph (1), if the State has failed to achieve the participation rates required by section 488 for 2 consecutive fiscal years, the Secretary may require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G.

''Part G—Workfare Program

''SEC. 490. ESTABLISHMENT AND OPERATION OF PROGRAM.

''(a) IN GENERAL.—A State that establishes a work first program under part F may establish and carry out a workfare program that meets the requirements of this part, unless the State has established a job placement voucher program under part H.

''(b) OBJECTIVE.—The objective of the workfare program is for each program participant to find and hold a full-time unsubsidized paid job, and for this goal to be achieved in a cost-effective fashion.

''(c) CASE MANAGEMENT TEAMS.—The State shall assign to each program participant a case management team that shall meet with the participant and assist the participant to choose the most suitable workfare job under subsection (e), (f), or (g) and to eventually obtain a full-time unsubsidized paid job.

''(d) PROVISION OF JOBS.—The State shall provide each participant in the program with

a community service job that meets the requirements of subsection (e) or a subsidized job that meets the requirements of subsection (f) or (g).

''(e) COMMUNITY SERVICE JOBS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each participant shall work for not fewer than 30 hours per week (or, at the option of the State, 20 hours per week during fiscal years 1997 and 1998, not fewer than 25 hours per week during fiscal year 1999, not fewer than 30 hours per week during fiscal years 2000 and 2001, and not fewer than 35 hours per week thereafter) in a community service job, and be paid at a rate which is not greater than 75 percent (or, at the option of the State, 100 percent) of the maximum amount of assistance that may be provided under the State plan approved under part A to a family of the same size and composition with no income.

''(2) EXCEPTION.—(A) If the participant has obtained unsubsidized part-time employment in the private sector, the State shall provide the participant with a part-time community service job.

''(B) If the State provides a participant a part-time community service job under subparagraph (A), the State shall ensure that the participant works for not fewer than 30 hours per week.

''(3) WAGES NOT CONSIDERED EARNED INCOME.—Wages paid under a workfare program shall not be considered to be earned income for purposes of any provision of law.

''(4) COMMUNITY SERVICE JOB DEFINED.—For purposes of this section, the term 'community service job' means—

''(A) a job provided to a participant by the State administering the State plan under part A; or

''(B) a job provided to a participant by any other employer for which all or part of the wages are paid by the State.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

''(f) TEMPORARY SUBSIDIZED JOB CREATION.—A State that establishes a workfare program under this part may establish a program similar to the program operated by the State of Oregon, which is known as 'JOBS Plus'.

''(g) WORK SUPPLEMENTATION PROGRAM.—

''(1) IN GENERAL.—A State that establishes a workfare program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as a community service minimum wage and use the sums instead for the purpose of providing and subsidizing private sector jobs for the participants.

''(2) EMPLOYER AGREEMENT.—An employer who provides a private sector job to a participant under paragraph (1) shall agree to provide to the participant an amount in wages equal to the poverty threshold for a family of three.

''(h) JOB SEARCH REQUIREMENT.—The State shall require each participant to spend a minimum of 5 hours per week on activities related to securing unsubsidized full-time employment in the private sector.

''(i) DURATION OF PARTICIPATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an individual may not participate for more than 2 years in a workfare program under this part.

''(2) AUTHORITY TO ALLOW REPEATED PARTICIPATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

''(B) LIMITATION ON PERCENTAGE OF REPEAT PARTICIPANTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed 10 percent of the total number of individuals who participated in the program during the immediately preceding program year.

''(ii) AUTHORITY TO INCREASE LIMITATION.—

''(I) PETITION.—A State may request the Secretary to increase the percentage limitation imposed by clause (i) to not more than 15 percent.

''(II) AUTHORITY TO GRANT REQUEST.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

''(j) USE OF PLACEMENT COMPANIES.—A State that establishes a workfare program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance in accordance with section 483.

''(k) MAXIMUM OF 3 COMMUNITY SERVICE JOBS.—A program participant may not receive more than 3 community service jobs under the program.

''Part H—Job Placement Voucher Program

''SEC. 490A. JOB PLACEMENT VOUCHER PROGRAM.

''A State that is not operating a workfare program under part G may establish a job placement voucher program that meets the following requirements:

''(1) The program shall offer each program participant a voucher which the participant may use to obtain employment in the private sector.

''(2) An employer who receives a voucher issued under the program from an individual may redeem the voucher at any time after the individual has been employed by the employer for 6 months, unless another employee of the employer was displaced by the employment of the individual.

''(3) Upon presentation of a voucher by an employer to the State agency responsible for the administration of the program, the State agency shall pay to the employer an amount equal to 50 percent of the total amount of assistance provided under the State plan approved under part A to the family of which the individual is a member for the most recent 12 months for which the family was eligible for such assistance.''.

(c) FUNDING.—Section 413(a), as added by section 9101(a) of this Act, is amended—

(1) by striking ''Subject to'' and inserting the following:

''(1) IN GENERAL.—Subject to''; and

(2) by inserting after and below the end the following:

''(2) WORK FIRST AND OTHER PROGRAMS.—(A) Each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H shall be entitled to payments under paragraph (3) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in such paragraph) of its expenditures to carry out such programs (subject to limitations prescribed by or pursuant to such parts or this part on expenditures that may be included for purposes of determining payment under paragraph (3)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under subparagraph (B) with respect to the State.

''(B) The limitation determined under this subparagraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (C) for such fiscal year as the average monthly number of adult recipients (as defined in subparagraph (D)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

''(C)(i) The amount specified in this subparagraph is—

''(I) $1,600,000,000 for fiscal year 1997;

''(II) $1,600,000,000 for fiscal year 1998;

''(III) $1,900,000,000 for fiscal year 1999;

''(IV) $2,500,000,000 for fiscal year 2000; and

''(V) $3,200,000,000 for fiscal year 2001; and

''(VI) $4,700,000,000 for fiscal year 2002; and

''(VII) the amount determined under clause (ii) for fiscal year 2003 and each succeeding fiscal year.

''(ii) The amount determined under this clause for a fiscal year is the product of the following:

''(I) The amount specified in this subparagraph for the immediately preceding fiscal year.

''(II) 1.00 plus the percentage (if any) by which—

''(aa) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the most recent 12-month period for which such information is available; exceeds

''(bb) the average of the Consumer Price Index (as so defined) for the 12-month period ending on June 30 of the 2nd preceding fiscal year.

''(III) The amount that bears the same ratio to the amount specified in this subparagraph for the immediately preceding fiscal year as the number of individuals whom the Secretary estimates will participate in programs operated under part F, G, or H during the fiscal year bears to the total number of individuals who participated in such programs during such preceding fiscal year.

''(D) For purposes of this paragraph, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with assistance provided under the State plan approved under this part.

''(E) For purposes of subparagraph (D), the term 'dependent child' means a needy child (i) who has been deprived of parental support or care by reason of the death, continued absence from the home (other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States), or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (ii) who is (I) under the age of eighteen, or (II) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training).

''(F) For purposes of subparagraph (E), the term 'relative with whom any dependent child is living' means the individual who is one of the relatives specified in subparagraph (E) and with whom such child is living (within the meaning of such subsection) in a

place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

''(3)(A) In lieu of any payment under paragraph (1) therefor, the Secretary shall pay to each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H, with respect to expenditures by the State to carry out such programs, an amount equal to—

''(i) with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in the fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then in effect, 90 percent; and

''(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)—

''(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such programs for such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services; and

''(II) 60 percent or the Federal medical assistance percentage (as defined in the last sentence of section 1118), whichever is the greater, in the case of expenditures made by a State in operating such programs for such fiscal year (other than for costs described in subclause (I)).

''(B) With respect to the amount for which payment is made to a State under subparagraph (A)(i), the State's expenditures for the costs of operating such programs may be in cash or in kind, fairly evaluated.

''(C) Not more than 10 percent of the amount payable to a State under this paragraph for a quarter may be for expenditures made during the quarter with respect to program participants who are not eligible for assistance under the State plan approved under this part.''.

(d) SECRETARY'S SPECIAL ADJUSTMENT FUND.—Section 413(a), as added by section 9101(a) of this Act, is amended by adding at the end the following:

''(4) SECRETARY'S SPECIAL ADJUSTMENT FUND.—(A) There shall be available to the Secretary from the amount appropriated for payments under paragraph (2) for States' programs under parts F and G for fiscal year 1996, $300,000,000 for special adjustments to States' limitations on Federal payments for such programs.

''(B) A State may, not later than March 1 and September 1 of each fiscal year, submit to the Secretary a request to adjust the limitation on payments under this section with respect to its program under part F (and, in fiscal years after 1997) its program under part G for the following fiscal year. The Secretary shall only consider such a request from a State which has, or which demonstrates convincingly on the basis of estimates that it will, submit allowable claims for Federal payment in the full amount available to it under paragraph (2) in the current fiscal year and obligated 95 percent of its full amount in the prior fiscal year. The Secretary shall by regulation prescribe criteria for the equitable allocation among the States of Federal payments pursuant to adjustments of the limitations referred to in the preceding sentence in the case where the requests of all States that the Secretary finds reasonable exceed the amount available, and, within 30 days following the dates specified in this paragraph, will notify each State whether one or more of its limitations will be adjusted in accordance with the State's request and the amount of the adjustment (which may be some or all of the amount requested).

''(C) The Secretary may adjust the limitation on Federal payments to a State for a fiscal year under paragraph (2), and upon a determination by the Secretary that (and the amount by which) a State's limitation should be raised, the amount specified in such paragraph shall be considered to be so increased for the following fiscal year.

''(D) The amount made available under subparagraph (A) for special adjustments shall remain available to the Secretary until expended. That amount shall be reduced by the sum of the adjustments approved by the Secretary in any fiscal year, and the amount shall be increased in a fiscal year by the amount by which all States' limitations under paragraph (2) of this subsection and section 2008 for a fiscal year exceeded the sum of the Federal payments under such provisons of law for such fiscal year, but for fiscal years after 1997, such amount at the end of such fiscal year shall not exceed $400,000,000.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 1115(b)(2)(A) (42 U.S.C. 1315(b)(2)(A)) is amended by striking '', and 402(a)(19) (relating to the work incentive program)''.

(2) Section 1108 (42 U.S.C. 1308) is amended—

(A) in subsection (a), by striking ''or, in the case of part A of title IV, section 403(k)''; and

(B) in subsection (d), by striking ''(exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies)''.

(3) Section 1902(a)(10)(A)(i)(I) (42 U.S.C. 1396a(a)(19)(A)(i)(I)) is amended—

(A) by striking ''402(a)(37), 406(h), or''; and

(B) by striking ''482(e)(6)'' and inserting ''486(f)''.

(4) Section 1928(a)(1) (42 U.S.C. 1396s(a)(1)) is amended by striking ''482(e)(6)'' and inserting ''486(f)''.

(f) INTENT OF THE CONGRESS.—The Congress intends for State activities under section 484 of the Social Security Act (as added by the amendment made by section 9301(a) of this Act) to emphasize the use of the funds that would otherwise be used to provide individuals with assistance under part A of title IV of the Social Security Act and with food stamp benefits under the Food Stamp Act of 1977, to subsidize the wages of such individuals in temporary jobs.

(g) SENSE OF THE CONGRESS.—It is the sense of the Congress that States should target individuals who have not attained 25 years of age for participation in the program established by the State under part F of title IV of the Social Security Act (as added by the amendment made by section 9301(a) of this section) in order to break the cycle of welfare dependency.

SEC. 9302. REGULATIONS.

The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle.

SEC. 9303. APPLICABILITY TO STATES.

(a) STATE OPTION TO ACCELERATE APPLICABILITY.—If a State formally notifies the Secretary of Health and Human Services that the State desires to accelerate the applicability to the State of the amendments made by this subtitle, the amendments shall apply to the State on and after such earlier date as the State may select.

(b) STATE OPTION TO DELAY APPLICABILITY UNTIL WAIVERS EXPIRE.—The amendments made by this subtitle shall not apply to a State with respect to which there is in effect a waiver issued under section 1115 of the Social Security Act for the State program established under part F of title IV of such Act, until the waiver expires, if the State formally notifies the Secretary of Health and Human Services that the State desires to so delay such effective date.

(c) AUTHORITY OF THE SECRETARY OF HEALTH AND HUMAN SERVICES TO DELAY APPLICABILITY TO A STATE.—If a State formally notifies the Secretary of Health and Human Services that the State desires to delay the applicability to the State of the amendments made by this title, the amendments shall apply to the State on and after any later date agreed upon by the Secretary and the State.

Subtitle D—Family Responsibility And Improved Child Support Enforcement

CHAPTER 1—ELIGIBILITY AND OTHER MATTERS CONCERNING TITLE IV–D PROGRAM CLIENTS

SEC. 9401. STATE OBLIGATION TO PROVIDE PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE LAW REQUIREMENTS.—Section 466(a) (42 U.S.C. 666(a)) is amended by inserting after paragraph (11) the following:

''(12) USE OF CENTRAL CASE REGISTRY AND CENTRALIZED COLLECTIONS UNIT.—Procedures under which—

''(A) every child support order established or modified in the State on or after October 1, 1998, is recorded in the central case registry established in accordance with section 454A(e); and

''(B) child support payments are collected through the centralized collections unit established in accordance with section 454B—

''(i) on and after October 1, 1998, under each order subject to wage withholding under section 466(b); and

''(ii) on and after October 1, 1999, under each other order required to be recorded in such central case registry under this paragraph or section 454A(e), except as provided in subparagraph (C); and

''(C)(i) parties subject to a child support order described in subparagraph (B)(ii) may opt out of the procedure for payment of support through the centralized collections unit (but not the procedure for inclusion in the central case registry) by filing with the State agency a written agreement, signed by both parties, to an alternative payment procedure; and

''(ii) an agreement described in clause (i) becomes void whenever either party advises the State agency of an intent to vacate the agreement.''.

(b) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following:

''(4) provide that such State will undertake—

''(A) to provide appropriate services under this part to—

''(i) each child with respect to whom an assignment is effective under section 403(b)(1)(E)(i), 471(a)(17), or 1912 (except in cases where the State agency determines, in accordance with paragraph (25), that it is against the best interests of the child to do so); and

''(ii) each child not described in clause (i)—

''(I) with respect to whom an individual applies for such services; and

''(II) (on and after October 1, 1998) each child with respect to whom a support order is recorded in the central State case registry established under section 454A, regardless of whether application is made for services under this part; and

''(B) to enforce the support obligation established with respect to the custodial parent of a child described in subparagraph (A) unless the parties to the order which establishes the support obligation have opted, in

accordance with section 466(a)(12)(C), for an alternative payment procedure.''; and

(2) in paragraph (6)—

(A) by striking subparagraph (A) and inserting the following:

''(A) services under the State plan shall be made available to nonresidents on the same terms as to residents;'';

(B) in subparagraph (B)—

(i) by inserting ''on individuals not receiving assistance under part A'' after ''such services shall be imposed''; and

(ii) by inserting ''but no fees or costs shall be imposed on any absent or custodial parent or other individual for inclusion in the central State registry maintained pursuant to section 454A(e)''; and

(C) in each of subparagraphs (B), (C), and (D)—

(i) by indenting such subparagraph and aligning its left margin with the left margin of subparagraph (A); and

(ii) by striking the final comma and inserting a semicolon.

(c) CONFORMING AMENDMENTS.—

(1) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking ''454(6)'' each place it appears and inserting ''454(4)(A)(ii)''.

(2) Section 454(23) (42 U.S.C. 654(23)) is amended, effective October 1, 1998, by striking ''information as to any application fees for such services and''.

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking ''in the case of overdue support which a State has agreed to collect under section 454(6)'' and inserting ''in any other case''.

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking ''or (6)''.

SEC. 9402. DISTRIBUTION OF PAYMENTS.

(a) DISTRIBUTIONS THROUGH STATE CHILD SUPPORT ENFORCEMENT AGENCY TO FORMER ASSISTANCE RECIPIENTS.—Section 454(5) (42 U.S.C. 654(5)) is amended—

(1) in subparagraph (A)—

(A) by striking section 402(a)(26) is effective,'' and inserting ''section 403(b)(1)(E)(i) is effective, except as otherwise specifically provided in section 464 or 466(a)(3),''; and

(B) by striking ''except that'' and all that follows through the semicolon; and

(2) in subparagraph (B), by striking '', except'' and all that follows through ''medical assistance''.

(b) DISTRIBUTION TO A FAMILY CURRENTLY RECEIVING TEMPORARY EMPLOYMENT ASSISTANCE.—Section 457 (42 U.S.C. 657) is amended—

(1) by striking subsection (a) and redesignating subsection (b) as subsection (a);

(2) in subsection (a) (as so redesignated)—

(A) in the matter preceding paragraph (2), to read as follows:

''(a) IN THE CASE OF A FAMILY RECEIVING TEA.—Amounts collected under this part during any month as support of a child who is receiving assistance under part A (or a parent or caretaker relative of such a child) shall (except in the case of a State exercising the option under subsection (b)) be distributed as follows:

''(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

''(A) the amounts received in a month which represent payments for that month; and

''(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;'';

(B) in paragraph (4), by striking ''or (B)'' and all that follows through the period and inserting ''; then (B) from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and then (C) any remainder shall be paid to the family.''; and

(3) by inserting after subsection (a) (as so redesignated) the following new subsection:

''(b) ALTERNATIVE DISTRIBUTION IN CASE OF FAMILY RECEIVING TEA.—In the case of a State electing the option under this subsection, amounts collected as described in subsection (a) shall be distributed as follows:

''(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

''(A) the amounts received in a month which represent payments for that month; and

''(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;

''(2) second, from any remainder, amounts equal to the balance of support owed for the current month shall be paid to the family;

''(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to the State making the collection shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

''(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

''(5) fifth, any remainder shall be paid to the family.''.

(c) DISTRIBUTION TO A FAMILY NOT RECEIVING TEA.—Section 457(c) (42 U.S.C. 657(c)) is amended to read as follows:

''(c) DISTRIBUTIONS IN CASE OF FAMILY NOT RECEIVING TEA.—Amounts collected by a State agency under this part during any month as support of a child who is not receiving assistance under part A (or of a parent or caretaker relative of such a child) shall (subject to the remaining provisions of this section) be distributed as follows:

''(1) first, amounts equal to the total of such support owed for such month shall be paid to the family;

''(2) second, from any remainder, amounts equal to arrearages of such support obligations for months during which such child did not receive assistance under part A shall be paid to the family;

''(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned to the State making the collection pursuant to part A shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

''(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned to any other State pursuant to part A shall be paid to such other State or States, and used to pay such arrearages, in the order in which such arrearages accrued (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing).''.

* * * for each fiscal year beginning on or after October 1, 1998, shall be increased by a factor reflecting the sum of the applicable incentive adjustments (if any) determined in accordance with regulations under this section with respect to Statewide paternity establishment and to overall performance in child support enforcement.

''(2) STANDARDS.—(A) IN GENERAL.—The Secretary shall specify in regulations—

''(i) the levels of accomplishment, and rates of improvement as alternatives to such levels, which States must attain to qualify for incentive adjustments under this section; and

''(ii) the amounts of incentive adjustment that shall be awarded to States achieving specified accomplishment or improvement levels, which amounts shall be graduated, ranging up to—

''(I) 5 percentage points, in connection with Statewide paternity establishment; and

''(II) 10 percentage points, in connection with overall performance in child support enforcement.

''(B) LIMITATION.—In setting performance standards pursuant to subparagraph (A)(i) and adjustment amounts pursuant to subparagraph (A)(ii), the Secretary shall ensure that the aggregate number of percentage point increases as incentive adjustments to all States do not exceed such aggregate increases as assumed by the Secretary in estimates of the cost of this section as of June 1995, unless the aggregate performance of all States exceeds the projected aggregate performance of all States in such cost estimates.

''(3) DETERMINATION OF INCENTIVE ADJUSTMENT.—The Secretary shall determine the amount (if any) of incentive adjustment due each State on the basis of the data submitted by the State pursuant to section 454(15)(B) concerning the levels of accomplishment (and rates of improvement) with respect to performance indicators specified by the Secretary pursuant to this section.

''(4) FISCAL YEAR SUBJECT TO INCENTIVE ADJUSTMENT.—The total percentage point increase determined pursuant to this section with respect to a State program in a fiscal year shall apply as an adjustment to the applicable percent under section 455(a)(2) for payments to such State for the succeeding fiscal year.

''(5) RECYCLING OF INCENTIVE ADJUSTMENT.—A State shall expend in the State program under this part all funds paid to the State by the Federal Government as a result of an incentive adjustment under this section.

''(b) MEANING OF TERMS.—For purposes of this section—

''(1) the term 'Statewide paternity establishment percentage' means, with respect to a fiscal year, the ratio (expressed as a percentage) of—

''(A) the total number of out-of-wedlock children in the State under one year of age for whom paternity is established or acknowledged during the fiscal year, to

''(B) the total number of children born out of wedlock in the State during such fiscal year; and

''(2) the term 'overall performance in child support enforcement' means a measure or measures of the effectiveness of the State agency in a fiscal year which takes into account factors including—

''(A) the percentage of cases requiring a child support order in which such an order was established;

''(B) the percentage of cases in which child support is being paid;

''(C) the ratio of child support collected to child support due; and

''(D) the cost-effectiveness of the State program, as determined in accordance with standards established by the Secretary in regulations.''.

(b) ADJUSTMENT OF PAYMENTS UNDER PART D OF TITLE IV.—Section 455(a)(2) (42 U.S.C. 655(a)(2)), as amended by section 9411(a) of this Act, is amended—

(1) by striking the period at the end of subparagraph (C)(ii) and inserting a comma; and

(2) by adding after and below subparagraph (C), flush with the left margin of the subsection, the following:

''increased by the incentive adjustment factor (if any) determined by the Secretary pursuant to section 458.''.

(c) CONFORMING AMENDMENTS.—Section 454(22) (42 U.S.C. 654(22)) is amended—

(1) by striking ''incentive payments'' the first place it appears and inserting ''incentive adjustments''; and

(2) by striking ''any such incentive payments made to the State for such period'' and inserting ''any increases in Federal payments to the State resulting from such incentive adjustments''.

(d) CALCULATION OF IV–D PATERNITY ESTABLISHMENT PERCENTAGE.—(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended in the matter preceding subparagraph (A) by inserting ''its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and'' after ''1994,''.

(2) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended—

(A) in subparagraph (A), in the matter preceding clause (i)—

(i) by striking ''paternity establishment percentage'' and inserting ''IV–D paternity establishment percentage''; and

(ii) by striking ''(or all States, as the case may be)'';

(B) in subparagraph (A)(i), by striking ''during the fiscal year'';

(C) in subparagraph (A)(ii)(I), by striking ''as of the end of the fiscal year'' and inserting ''in the fiscal year or, at the option of the State, as of the end of such year'';

(D) in subparagraph (A)(ii)(II), by striking ''or (E) as of the end of the fiscal year'' and inserting ''in the fiscal year or, at the option of the State, as of the end of such year'';

(E) in subparagraph (A)(iii)—

(i) by striking ''during the fiscal year''; and

(ii) by striking ''and'' at the end; and

(F) in the matter following subparagraph (A)—

(i) by striking ''who were born out of wedlock during the immediately preceding fiscal year'' and inserting ''born out of wedlock'';

(ii) by striking ''such preceding fiscal year'' both places it appears and inserting ''the preceding fiscal year''; and

(iii) by striking ''or (E)'' the second place it appears.

(3) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A), as redesignated, by striking ''the percentage of children born out-of-wedlock in the State'' and inserting ''the percentage of children in the State who are born out of wedlock or for whom support has not been established''; and

(C) in subparagraph (B), as redesignated—

(i) by inserting ''and overall performance in child support enforcement'' after ''paternity establishment percentages''; and

(ii) by inserting ''and securing support'' before the period.

(e) REDUCTION OF PAYMENTS UNDER PART D OF TITLE IV.—

(1) NEW REQUIREMENTS.—Section 455 (42 U.S.C. 655) is amended by inserting after subsection (b) the following:

''(c)(1) If the Secretary finds, with respect to a State program under this part in a fiscal year beginning on or after October 1, 1997—

''(A)(i) on the basis of data submitted by a State pursuant to section 454(15)(B), that the State program in such fiscal year failed to achieve the IV–D paternity establishment percentage (as defined in section 452(g)(2)(A)) or the appropriate level of overall performance in child support enforcement (as defined in section 458(b)(2)), or to meet other performance measures that may be established by the Secretary, or

''(ii) on the basis of an audit or audits of such State data conducted pursuant to section 452(a)(4)(C), that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; and

''(B) that, with respect to the succeeding fiscal year—

''(i) the State failed to take sufficient corrective action to achieve the appropriate performance levels as described in subparagraph (A)(i) of this paragraph, or

''(ii) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable,

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program is in compliance with such performance requirement, shall be reduced by the percentage specified in paragraph (2).

''(2) The reductions required under paragraph (1) shall be—

''(A) not less than 6 nor more than 8 percent, or

''(B) not less than 8 nor more than 12 percent, if the finding is the second consecutive finding made pursuant to paragraph (1), or

''(C) not less than 12 nor more than 15 percent, if the finding is the third or a subsequent consecutive such finding.

''(3) For purposes of this subsection, section 405(d), and section 452(a)(4), a State which is determined as a result of an audit to have submitted incomplete or unreliable data pursuant to section 454(15)(B), shall be determined to have submitted adequate data if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's performance.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended by striking ''403(h)'' each place such term appears and inserting ''455(c)''.

(B) Subsections (d)(3)(A), (g)(1), and (g)(3)(A) of section 452 (42 U.S.C. 652) are each amended by striking ''403(h)'' and inserting ''455(c)''.

(f) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—(A) The amendments made by subsections (a), (b), and (c) shall become effective October 1, 1997, except to the extent provided in subparagraph (B).

(B) Section 458 of the Social Security Act, as in effect prior to the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years prior to fiscal year 1999.

(2) PENALTY REDUCTIONS.—(A) The amendments made by subsection (d) shall become effective with respect to calendar quarters beginning on and after the date of enactment of this Act.

(B) The amendments made by subsection (e) shall become effective with respect to calendar quarters beginning on and after the date one year after the date of enactment of this Act.

SEC. 9413. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking ''(14)'' and inserting ''(14)(A)'';

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

''(15) provide for—

''(A) a process for annual reviews of and reports to the Secretary on the State program under this part, which shall include such information as may be necessary to measure State compliance with Federal requirements for expedited procedures and timely case processing, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which such program is in conformity with applicable requirements with respect to the operation of State programs under this part (including the status of complaints filed under the procedure required under paragraph (12)(B)); and

''(B) a process of extracting from the State automated data processing system and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV–D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.''.

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

''(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of section 452(g) and 458, and determine the amount (if any) of penalty reductions pursuant to section 455(c) to be applied to the State;

''(B) review annual reports by State agencies pursuant to section 454(15)(A) on State program conformity with Federal requirements; evaluate any elements of a State program in which significant deficiencies are indicated by such report on the status of complaints under the State procedure under section 454(12)(B); and, as appropriate, provide to the State agency comments, recommendations for additional or alternative corrective actions, and technical assistance; and

''(C) conduct audits, in accordance with the government auditing standards of the United States Comptroller General—

''(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet requirements of this part, or of regulations implementing such requirements, concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used for the calculations of performance indicators specified in subsection (g) and section 458;

''(ii) of the adequacy of financial management of the State program, including assessments of—

''(I) whether Federal and other funds made available to carry out the State program under this part are being appropriately expended, and are properly and fully accounted for; and

''(II) whether collections and disbursements of support payments and program income are carried out correctly and are properly and fully accounted for; and

''(iii) for such other purposes as the Secretary may find necessary;''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after the date one year after enactment of this section.

SEC. 9414. REQUIRED REPORTING PROCEDURES.

(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting '', and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes and timely case processing) to be applied in following such procedures'' before the semicolon.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 9404(a) of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting ''; and''; and

(3) by adding after paragraph (25) the following:

''(26) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.''.

SEC. 9415. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) REVISED REQUIREMENTS.—(1) Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking '', at the option of the State,'';

(B) by inserting ''and operation by the State agency'' after ''for the establishment'';

(C) by inserting ''meeting the requirements of section 454A'' after ''information retrieval system'';

(D) by striking ''in the State and localities thereof, so as (A)'' and inserting ''so as'';

(E) by striking ''(i)''; and

(F) by striking ''(including'' and all that follows and inserting a semicolon.

(2) Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

''AUTOMATED DATA PROCESSING

''SEC. 454A. (a) IN GENERAL.—In order to meet the requirements of this section, for purposes of the requirement of section 454(16), a State agency shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section, and performs such tasks with the frequency and in the manner specified in this part or in regulations or guidelines of the Secretary.

''(b) PROGRAM MANAGEMENT.—The automated system required under this section shall perform such functions as the Secretary may specify relating to management of the program under this part, including—

''(1) controlling and accounting for use of Federal, State, and local funds to carry out such program; and

''(2) maintaining the data necessary to meet Federal reporting requirements on a timely basis.

''(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

''(1) use the automated system—

''(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

''(B) to calculate the IV–D paternity establishment percentage and overall performance in child support enforcement for the State for each fiscal year; and

''(2) have in place systems controls to ensure the completeness, and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

''(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required under this section, which shall include the following (in addition to such other safeguards as the Secretary specifies in regulations):

''(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

''(A) permit access to and use of data only to the extent necessary to carry out program responsibilities;

''(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data; and

''(C) ensure that data obtained or disclosed for a limited program purpose is not used or redisclosed for another, impermissible purpose.

''(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies specified under paragraph (1).

''(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

''(4) TRAINING AND INFORMATION.—The State agency shall have in effect procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use sensitive or confidential program data are fully informed of applicable requirements and penalties, and are adequately trained in security procedures.

''(5) PENALTIES.—The State agency shall have in effect administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.''.

(3) REGULATIONS.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

''(j) The Secretary shall prescribe final regulations for implementation of the requirements of section 454A not later than 2 years after the date of the enactment of this subsection.''.

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by sections 9404(a)(2) and 9414(b)(1) of this Act, is amended to read as follows:

''(24) provide that the State will have in effect an automated data processing and information retrieval system—

''(A) by October 1, 1995, meeting all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988; and

''(B) by October 1, 1999, meeting all requirements of this part enacted on or before the date of enactment of the Omnibus Budget Reconciliation Act of 1995 (but this provision shall not be construed to alter earlier deadlines specified for elements of such system), except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 452(j) of this Act;''.

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(1) in paragraph (1)(B)—

(A) by striking ''90 percent'' and inserting ''the percent specified in paragraph (3)'';

(B) by striking ''so much of''; and

(C) by striking ''which the Secretary'' and all that follows and inserting '', and''; and

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

''(3)(A) The Secretary shall pay to each State, for each quarter in fiscal year 1996, 90 percent of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16), or meeting such requirements without regard to clause (D) thereof.

''(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) and 454A, subject to clause (iii).

''(ii) The percentage specified in this clause, for purposes of clause (i), is the higher of—

''(I) 80 percent, or

''(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted pursuant to section 458).''.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed.

(d) ADDITIONAL PROVISIONS.—For additional provisions of section 454A, as added by subsection (a) of this section, see the amendments made by sections 9421, 9422(c), and 9433(d) of this Act.

SEC. 9416. DIRECTOR OF CSE PROGRAM; STAFFING STUDY.

(a) REPORTING TO SECRETARY.—Section 452(a) (42 U.S.C. 652(a)) is amended in the matter preceding paragraph (1) by striking ''directly''.

(b) STAFFING STUDIES.—

(1) SCOPE.—The Secretary of Health and Human Services shall, directly or by contract, conduct studies of the staffing of each State child support enforcement program under part D of title IV of the Social Security Act. Such studies shall include a review of the staffing needs created by requirements for automated data processing, maintenance of a central case registry and centralized collections of child support, and of changes in these needs resulting from changes in such requirements. Such studies shall examine and report on effective staffing practices used by the States and on recommended staffing procedures.

(2) FREQUENCY OF STUDIES.—The Secretary shall complete the first staffing study required under paragraph (1) by October 1, 1997, and may conduct additional studies subsequently at appropriate intervals.

(3) REPORT TO THE CONGRESS.—The Secretary shall submit a report to the Congress stating the findings and conclusions of each study conducted under this subsection.

SEC. 9417. FUNDING FOR SECRETARIAL ASSISTANCE TO STATE PROGRAMS.

Section 452 (42 U.S.C. 652), as amended by section 9415(a)(3) of this Act, is amended by adding at the end the following new subsection:

''(k) FUNDING FOR FEDERAL ACTIVITIES ASSISTING STATE PROGRAMS.—(1) There shall be available to the Secretary, from amounts appropriated for fiscal year 1996 and each succeeding fiscal year for payments to States under this part, the amount specified in paragraph (2) for the costs to the Secretary for—

''(A) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs (including technical assistance concerning State automated systems);

''(B) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part; and

''(C) operation of the Federal Parent Locator Service under section 453, to the extent such costs are not recovered through user fees.

''(2) The amount specified in this paragraph for a fiscal year is the amount equal to a percentage of the reduction in Federal payments to States under part A on account of child support (including arrearages) collected in the preceding fiscal year on behalf of children receiving assistance under State plans approved under part A in such preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), equal to—

''(A) 1 percent, for the activities specified in subparagraphs (A) and (B) of paragraph (1); and

''(B) 2 percent, for the activities specified in subparagraph (C) of paragraph (1).''.

SEC. 9418. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking ''this part;'' and inserting ''this part, including—''; and

(B) by adding at the end the following indented clauses:

''(i) the total amount of child support payments collected as a result of services furnished during such fiscal year to individuals receiving services under this part;

''(ii) the cost to the States and to the Federal Government of furnishing such services to those individuals; and

''(iii) the number of cases involving families—

''(I) who became ineligible for assistance under a State plan approved under part A during a month in such fiscal year; and

''(II) with respect to whom a child support payment was received in the same month;''.

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking ''with the data required under each clause being separately stated for cases'' and inserting ''separately stated for (1) cases'';

(ii) by striking ''cases where the child was formerly receiving'' and inserting ''or formerly received'';

(iii) by inserting ''or 1912'' after ''471(a)(17)''; and

(iv) by inserting ''(2)'' before ''all other'';

(B) in each of clauses (i) and (ii), by striking '', and the total amount of such obligations'';

(C) in clause (iii), by striking ''described in'' and all that follows and inserting ''in which support was collected during the fiscal year;'';

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

''(iv) the total amount of support collected during such fiscal year and distributed as current support;

''(v) the total amount of support collected during such fiscal year and distributed as arrearages;

''(vi) the total amount of support due and unpaid for all fiscal years; and''.

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking ''on the use of Federal courts and''.

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (I).

(b) DATA COLLECTION AND REPORTING.—Section 469 (42 U.S.C. 669) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) The Secretary shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to services to establish paternity and services to establish child support obligations, the data specified in subsection (b), separately stated, in the case of each such service, with respect to—

''(1) families (or dependent children) receiving assistance under State plans approved under part A (or E); and

''(2) families not receiving such assistance.

''(b) The data referred to in subsection (a) are—

''(1) the number of cases in the caseload of the State agency administering the plan under this part in which such service is needed; and

''(2) the number of such cases in which the service has been provided.''; and

(2) in subsection (c), by striking ''(a)(2)'' and inserting ''(b)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 3—LOCATE AND CASE TRACKING

SEC. 9421. CENTRAL STATE AND CASE REGISTRY.

Section 454A, as added by section 9415(a)(2) of this Act, is amended by adding at the end the following:

''(e) CENTRAL CASE REGISTRY.—(1) IN GENERAL.—The automated system required under this section shall perform the functions, in accordance with the provisions of this subsection, of a single central registry containing records with respect to each case in which services are being provided by the State agency (including, on and after October 1, 1998, each order specified in section 466(a)(12)), using such standardized data elements (such as names, social security numbers or other uniform identification numbers, dates of birth, and case identification numbers), and containing such other information (such as information on case status) as the Secretary may require.

''(2) PAYMENT RECORDS.—Each case record in the central registry shall include a record of—

''(A) the amount of monthly (or other periodic) support owed under the support order, and other amounts due or overdue (including arrears, interest or late payment penalties, and fees);

''(B) the date on which or circumstances under which the support obligation will terminate under such order;

''(C) all child support and related amounts collected (including such amounts as fees, late payment penalties, and interest on arrearages);

''(D) the distribution of such amounts collected; and

''(E) the birth date of the child for whom the child support order is entered.

''(3) UPDATING AND MONITORING.—The State agency shall promptly establish and maintain, and regularly monitor, case records in the registry required by this subsection, on the basis of—

''(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

''(B) information obtained from matches with Federal, State, or local data sources;

''(C) information on support collections and distributions; and

''(D) any other relevant information.

''(f) DATA MATCHES AND OTHER DISCLOSURES OF INFORMATION.—The automated system required under this section shall have the capacity, and be used by the State agency, to extract data at such times, and in such standardized format or formats, as may be required by the Secretary, and to share and match data with, and receive data from, other data bases and data matching services, in order to obtain (or provide) information necessary to enable the State agency (or Secretary or other State or Federal agencies) to carry out responsibilities under this part. Data matching activities of the State agency shall include at least the following:

''(1) DATA BANK OF CHILD SUPPORT ORDERS.—Furnish to the Data Bank of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) minimal information (to be specified by the Secretary) on each child support case in the central case registry.

''(2) FEDERAL PARENT LOCATOR SERVICE.—Exchange data with the Federal Parent Locator Service for the purposes specified in section 453.

''(3) TEMPORARY EMPLOYMENT ASSISTANCE PROGRAM AND MEDICAID AGENCIES.—Exchange data with State agencies (of the State and of other States) administering the programs under part A and title XIX, as necessary for the performance of State agency responsibilities under this part and under such programs.

''(4) INTRA- AND INTERSTATE DATA MATCHES.—Exchange data with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.''.

SEC. 9422. CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a) and 9414(b) of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting ''; and''; and

(3) by adding after paragraph (26) the following new paragraph:

''(27) provide that the State agency, on and after October 1, 1998—

''(A) will operate a centralized, automated unit for the collection and disbursement of child support under orders being enforced under this part, in accordance with section 454B; and

''(B) will have sufficient State staff (consisting of State employees), and (at State option) contractors reporting directly to the State agency to monitor and enforce support collections through such centralized unit, including carrying out the automated data processing responsibilities specified in section 454A(g) and to impose, as appropriate in particular cases, the administrative enforcement remedies specified in section 466(c)(1).''.

(b) ESTABLISHMENT OF CENTRALIZED COLLECTION UNIT.—Part D of title IV (42 U.S.C. 651–669) is amended by adding after section 454A the following new section:

''CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS

''SEC. 454B. (a) IN GENERAL.—In order to meet the requirement of section 454(27), the State agency must operate a single centralized, automated unit for the collection and disbursement of support payments, coordinated with the automated data system required under section 454A, in accordance with the provisions of this section, which shall be—

''(1) operated directly by the State agency (or by two or more State agencies under a regional cooperative agreement), or by a single contractor responsible directly to the State agency; and

''(2) used for the collection and disbursement (including interstate collection and disbursement) of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

''(b) REQUIRED PROCEDURES.—The centralized collections unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

''(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the State agencies of other States;

''(2) for accurate identification of payments;

''(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

''(4) to furnish to either parent, upon request, timely information on the current status of support payments.''.

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 9415(a)(2) of this Act and as amended by section 9421 of this Act, is amended by adding at the end the following new subsection:

''(g) CENTRALIZED COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—The automated system required under this section shall be used, to the maximum extent feasible, to assist and facilitate collections and disbursement of support payments through the centralized collections unit operated pursuant to section 454B, through the performance of functions including at a minimum—

''(1) generation of orders and notices to employers (and other debtors) for the withholding of wages (and other income)—

''(A) within two working days after receipt (from the directory of New Hires established under section 453(i) or any other source) of notice of and the income source subject to such withholding; and

''(B) using uniform formats directed by the Secretary;

''(2) ongoing monitoring to promptly identify failures to make timely payment; and

''(3) automatic use of enforcement mechanisms (including mechanisms authorized pursuant to section 466(c)) where payments are not timely made.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 9423. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—(1) Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

''(1) INCOME WITHHOLDING.—(A) UNDER ORDERS ENFORCED UNDER THE STATE PLAN.—Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

''(B) UNDER CERTAIN ORDERS PREDATING CHANGE IN REQUIREMENT.—Procedures under which all child support orders issued (or modified) before October 1, 1996, and which are not otherwise subject to withholding under subsection (b), shall become subject to withholding from wages as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.''.

(2) Section 466(a)(8) (42 U.S.C. 666(a)(8)) is repealed.

(3) Section 466(b) (42 U.S.C. 666(b)) is amended—

(A) in the matter preceding paragraph (1), by striking ''subsection (a)(1)'' and inserting ''subsection (a)(1)(A)'';

(B) in paragraph (5), by striking all that follows ''administered by'' and inserting ''the State through the centralized collections unit established pursuant to section 454B, in accordance with the requirements of such section 454B.'';

(C) in paragraph (6)(A)(i)—

(i) by inserting '', in accordance with timetables established by the Secretary,'' after ''must be required''; and

(ii) by striking ''to the appropriate agency'' and all that follows and inserting ''to the State centralized collections unit within 5 working days after the date such amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part.'';

(D) in paragraph (6)(A)(ii), by inserting ''be in a standard format prescribed by the Secretary, and'' after ''shall''; and

(E) in paragraph (6)(D)—

(i) by striking ''employer who discharges'' and inserting ''employer who—(A) discharges'';

(ii) by relocating subparagraph (A), as designated, as an indented subparagraph after and below the introductory matter;

(iii) by striking the period at the end; and

(iv) by adding after and below subparagraph (A) the following new subparagraph:

''(B) fails to withhold support from wages, or to pay such amounts to the State centralized collections unit in accordance with this subsection.''.

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

(c) DEFINITION OF TERMS.—The Secretary shall promulgate regulations providing definitions, for purposes of part D of title IV of the Social Security Act, for the term ''income'' and for such other terms relating to income withholding under section 466(b) of such Act as the Secretary may find it necessary or advisable to define.

SEC. 9424. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 9423(a)(2) of this Act, is amended by inserting after paragraph (7) the following:

''(8) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures ensuring that the State will neither provide funding for, nor use for any purpose (including any purpose unrelated to the purposes of this part), any automated interstate network or system used to locate individuals—

''(A) for purposes relating to the use of motor vehicles; or

''(B) providing information for law enforcement purposes (where child support enforcement agencies are otherwise allowed access by State and Federal law),

unless all Federal and State agencies administering programs under this part (including the entities established under section 453) have access to information in such system or network to the same extent as any other user of such system or network.''.

SEC. 9425. EXPANDED FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows ''subsection (c))'' and inserting the following:

'', for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations—

''(1) information on, or facilitating the discovery of, the location of any individual—

''(A) who is under an obligation to pay child support;

''(B) against whom such an obligation is sought; or

''(C) to whom such an obligation is owed, including such individual's social security number (or numbers), most recent residential address, and the name, address, and employer identification number of such individual's employer; and

''(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

''(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''social security'' and all that follows through ''absent parent'' and inserting ''information specified in subsection (a)''; and

(B) in paragraph (2), by inserting before the period '', or from any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))'';

(3) in subsection (e)(1), by inserting before the period '', or by consumer reporting agencies''.

(b) REIMBURSEMENT FOR DATA FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the fourth sentence by inserting before the period ''in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data)''.

(c) ACCESS TO CONSUMER REPORTS UNDER FAIR CREDIT REPORTING ACT.—(1) Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(A) by striking '', limited to'' and inserting ''to a governmental agency (including the entire consumer report, in the case of a Federal, State, or local agency administering a program under part D of title IV of the Social Security Act, and limited to''; and

(B) by striking ''employment, to a governmental agency'' and inserting ''employment, in the case of any other governmental agency)''.

(2) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES AND CREDIT BUREAUS.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

''(g) The Secretary is authorized to reimburse costs to State agencies and consumer credit reporting agencies the costs incurred by such entities in furnishing information requested by the Secretary pursuant to this section in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data).''.

(d) DISCLOSURE OF TAX RETURN INFORMATION.—(1) Section 6103(1)(6)(A)(ii) of the Internal Revenue Code of 1986 is amended by striking '', but only if'' and all that follows and inserting a period.

(2) Section 6103(1)(8)(A) of the Internal Revenue Code of 1986 is amended by inserting ''Federal,'' before ''State or local''.

(e) TECHNICAL AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), and 463(e) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), and 663(e)) are each amended by inserting ''Federal'' before ''Parent'' each place it appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding ''FEDERAL'' before ''PARENT''.

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (c)(2) of this section, is amended by adding at the end the following:

''(h) DATA BANK OF CHILD SUPPORT ORDERS.—

''(1) IN GENERAL.—Not later than October 1, 1998, In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes

specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry to be known as the Data Bank of Child Support Orders, which shall contain abstracts of child support orders and other information described in paragraph (2) on each case in each State central case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

''(2) CASE INFORMATION.—The information referred to in paragraph (1), as specified by the Secretary, shall include sufficient information (including names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have established or modified, or are enforcing or seeking to establish, such an order.

''(i) DIRECTORY OF NEW HIRES.—

''(1) IN GENERAL.—Not later than October 1, 1998, In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated directory to be known as the directory of New Hires, containing—

''(A) information supplied by employers on each newly hired individual, in accordance with paragraph (2); and

''(B) information supplied by State agencies administering State unemployment compensation laws, in accordance with paragraph (3).

''(2) EMPLOYER INFORMATION.—

''(A) INFORMATION REQUIRED.—Subject to subparagraph (D), each employer shall furnish to the Secretary, for inclusion in the directory established under this subsection, not later than 10 days after the date (on or after October 1, 1998) on which the employer hires a new employee (as defined in subparagraph (C)), a report containing the name, date of birth, and social security number of such employee, and the employer identification number of the employer.

''(B) REPORTING METHOD AND FORMAT.—The Secretary shall provide for transmission of the reports required under subparagraph (A) using formats and methods which minimize the burden on employers, which shall include—

''(i) automated or electronic transmission of such reports;

''(ii) transmission by regular mail; and

''(iii) transmission of a copy of the form required for purposes of compliance with section 3402 of the Internal Revenue Code of 1986.

''(C) EMPLOYEE DEFINED.—For purposes of this paragraph, the term 'employee' means any individual subject to the requirement of section 3402(f)(2) of the Internal Revenue Code of 1986.

''(D) PAPERWORK REDUCTION REQUIREMENT.—As required by the information resources management policies published by the Director of the Office of Management and Budget pursuant to section 3504(b)(1) of title 44, United States Code, the Secretary, in order to minimize the cost and reporting burden on employers, shall not require reporting pursuant to this paragraph if an alternative reporting mechanism can be developed that either relies on existing Federal or State reporting or enables the Secretary to collect the needed information in a more cost-effective and equally expeditious manner, taking into account the reporting costs on employers.

''(E) CIVIL MONEY PENALTY ON NONCOMPLYING EMPLOYERS.—(i) Any employer that fails to make a timely report in accordance with this paragraph with respect to an individual shall be subject to a civil money penalty, for each calendar year in which the failure occurs, of the lesser of $500 or 1 percent of the wages or other compensation paid by such employer to such individual during such calendar year.

''(ii) Subject to clause (iii), the provisions of section 1128A (other than subsections (a) and (b) thereof) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

''(iii) Any employer with respect to whom a penalty under this subparagraph is upheld after an administrative hearing shall be liable to pay all costs of the Secretary with respect to such hearing.

''(3) EMPLOYMENT SECURITY INFORMATION.—

''(A) REPORTING REQUIREMENT.—Each State agency administering a State unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act shall furnish to the Secretary of Health and Human Services extracts of the reports to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals required under section 303(a)(6), in accordance with subparagraph (B).

''(B) MANNER OF COMPLIANCE.—The extracts required under subparagraph (A) shall be furnished to the Secretary of Health and Human Services on a quarterly basis, with respect to calendar quarters beginning on and after October 1, 1996, by such dates, in such format, and containing such information as required by that Secretary in regulations.

''(j) DATA MATCHES AND OTHER DISCLOSURES.—

''(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—(A) The Secretary shall transmit data on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

''(B) The Social Security Administration shall verify the accuracy of, correct or supply to the extent necessary and feasible, and report to the Secretary, the following information in data supplied by the Secretary pursuant to subparagraph (A):

''(i) the name, social security number, and birth date of each individual; and

''(ii) the employer identification number of each employer.

''(2) CHILD SUPPORT LOCATOR MATCHES.—For the purpose of locating individuals for purposes of paternity establishment and establishment and enforcement of child support, the Secretary shall—

''(A) match data in the directory of New Hires against the child support order abstracts in the Data Bank of Child Support Orders not less often than every 2 working days; and

''(B) report information obtained from such a match to concerned State agencies operating programs under this part not later than 2 working days after such match.

''(3) DATA MATCHES AND DISCLOSURES OF DATA IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—The Secretary shall—

''(A) perform matches of data in each component of the Federal Parent Locator Service maintained under this section against data in each other such component (other than the matches required pursuant to paragraph (1)), and report information resulting from such matches to State agencies operating programs under this part and parts A, F, and G; and

''(B) disclose data in such registries to such State agencies,

to the extent, and with the frequency, that the Secretary determines to be effective in assisting such States to carry out their responsibilities under such programs.

''(k) FEES.—

''(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, the costs incurred by the Commissioner in performing the verification services specified in subsection (j).

''(2) FOR INFORMATION FROM SESAS.—The Secretary shall reimburse costs incurred by State employment security agencies in furnishing data as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such data).

''(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—State and Federal agencies receiving data or information from the Secretary pursuant to this section shall reimburse the costs incurred by the Secretary in furnishing such data or information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and matching such data or information).

''(l) RESTRICTION ON DISCLOSURE AND USE.—Data in the Federal Parent Locator Service, and information resulting from matches using such data, shall not be used or disclosed except as specifically provided in this section.

''(m) RETENTION OF DATA.—Data in the Federal Parent Locator Service, and data resulting from matches performed pursuant to this section, shall be retained for such period (determined by the Secretary) as appropriate for the data uses specified in this section.

''(n) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

''(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

''(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

''(o) LIMIT ON LIABILITY.—The Secretary shall not be liable to either a State or an individual for inaccurate information provided to a component of the Federal Parent Locator Service section and disclosed by the Secretary in accordance with this section.''.

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

''(B) the Federal Parent Locator Service established under section 453;''.

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''Secretary of Health, Education, and Welfare'' each place such term appears and inserting ''Secretary of Health and Human Services'';

(B) in subparagraph (B), by striking ''such information'' and all that follows and inserting ''information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;'';

(C) by striking ''and'' at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

''(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the directory of New Hires established under section 453(i) of the Social Security Act, and''.

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Section 303(a) (42 U.S.C. 503(a)) is amended—

(A) by striking ''and'' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(C) by adding after paragraph (9) the following new paragraph:

''(10) The making of quarterly electronic reports, at such dates, in such format, and containing such information, as required by the Secretary of Health and Human Services under section 453(i)(3), and compliance with such provisions as such Secretary may find necessary to ensure the correctness and verification of such reports.''.

SEC. 9426. USE OF SOCIAL SECURITY NUMBERS.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 9401(a) of this Act, is amended by inserting after paragraph (12) the following:

''(13) SOCIAL SECURITY NUMBERS REQUIRED.—Procedures requiring the recording of social security numbers—

''(A) of both parties on marriage licenses and divorce decrees; and

''(B) of both parents, on birth records and child support and paternity orders.''.

(b) CLARIFICATION OF FEDERAL POLICY.—Section 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended by striking the third sentence and inserting ''This clause shall not be considered to authorize disclosure of such numbers except as provided in the preceding sentence.''.

CHAPTER 4—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 9431. ADOPTION OF UNIFORM STATE LAWS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a) and 9426(a) of this Act, is amended inserting after paragraph (13) the following:

''(14) INTERSTATE ENFORCEMENT.—(A) ADOPTION OF UIFSA.—Procedures under which the State adopts in its entirety (with the modifications and additions specified in this paragraph) not later than January 1, 1997, and uses on and after such date, the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August, 1992.

''(B) EXPANDED APPLICATION OF UIFSA.—The State law adopted pursuant to subparagraph (A) shall be applied to any case—

''(i) involving an order established or modified in one State and for which a subsequent modification is sought in another State; or

''(ii) in which interstate activity is required to enforce an order.

''(C) JURISDICTION TO MODIFY ORDERS.—The State law adopted pursuant to subparagraph (A) of this paragraph shall contain the following provision in lieu of section 611(a)(1) of the Uniform Interstate Family Support Act described in such subparagraph (A):

'''(1) the following requirements are met:

'''(i) the child, the individual obligee, and the obligor—

'''(I) do not reside in the issuing State; and

'''(II) either reside in this State or are subject to the jurisdiction of this State pursuant to section 201; and

'''(ii) (in any case where another State is exercising or seeks to exercise jurisdiction to modify the order) the conditions of section 204 are met to the same extent as required for proceedings to establish orders; or'.

''(D) SERVICE OF PROCESS.—The State law adopted pursuant to subparagraph (A) shall recognize as valid, for purposes of any proceeding subject to such State law, service of process upon persons in the State (and proof of such service) by any means acceptable in another State which is the initiating or responding State in such proceeding.

''(E) COOPERATION BY EMPLOYERS.—The State law adopted pursuant to subparagraph (A) shall provide for the use of procedures (including sanctions for noncompliance) under which all entities in the State (including for-profit, nonprofit, and governmental employers) are required to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor.''.

SEC. 9432. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking ''subsection (e)'' and inserting ''subsections (e), (f), and (i)'';

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

'''child's home State' means the State in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month period.'';

(3) in subsection (c), by inserting ''by a court of a State'' before ''is made'';

(4) in subsection (c)(1), by inserting ''and subsections (e), (f), and (g)'' after ''located'';

(5) in subsection (d)—

(A) by inserting ''individual'' before ''contestant''; and

(B) by striking ''subsection (e)'' and inserting ''subsections (e) and (f)'';

(6) in subsection (e), by striking ''make a modification of a child support order with respect to a child that is made'' and inserting ''modify a child support order issued'';

(7) in subsection (e)(1), by inserting ''pursuant to subsection (i)'' before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting ''individual'' before ''contestant'' each place such term appears; and

(B) by striking ''to that court's making the modification and assuming'' and inserting ''with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume'';

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following:

''(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If one or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

''(1) If only one court has issued a child support order, the order of that court must be recognized.

''(2) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

''(3) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

''(4) If two or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

''(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.'';

(11) in subsection (g) (as so redesignated)—

(A) by striking ''PRIOR'' and inserting ''MODIFIED''; and

(B) by striking ''subsection (e)'' and inserting ''subsections (e) and (f)'';

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting ''including the duration of current payments and other obligations of support'' before the comma; and

(B) in paragraph (3), by inserting ''arrears under'' after ''enforce''; and

(13) by adding at the end the following:

''(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.''.

SEC. 9433. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666) is amended—

(1) in subsection (a)(2), in the first sentence, to read as follows: ''Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations.''; and

(2) by adding after subsection (b) the following new subsection:

''(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:

''(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority (and recognize and enforce the authority of State agencies of other States), without the necessity of obtaining an order from any other judicial or administrative tribunal (but subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal), to take the following actions relating to establishment or enforcement of orders:

''(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

''(B) DEFAULT ORDERS.—To enter a default order, upon a showing of service of process and any additional showing required by State law—

''(i) establishing paternity, in the case of any putative father who refuses to submit to genetic testing; and

''(ii) establishing or modifying a support obligation, in the case of a parent (or other obligor or obligee) who fails to respond to notice to appear at a proceeding for such purpose.

''(C) SUBPOENAS.—To subpoena any financial or other information needed to establish, modify, or enforce an order, and to sanction failure to respond to any such subpoena.

''(D) ACCESS TO PERSONAL AND FINANCIAL INFORMATION.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

''(i) records of other State and local government agencies, including—

''(I) vital statistics (including records of marriage, birth, and divorce);

''(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

''(III) records concerning real and titled personal property;

''(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

''(V) employment security records;

''(VI) records of agencies administering public assistance programs;

''(VII) records of the motor vehicle department; and

''(VIII) corrections records; and

''(ii) certain records held by private entities, including—

''(I) customer records of public utilities and cable television companies; and

''(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access).

''(E) INCOME WITHHOLDING.—To order income withholding in accordance with subsection (a)(1) and (b) of section 466.

''(F) CHANGE IN PAYEE.—(In cases where support is subject to an assignment under section 403(b)(1)(E)(i), 471(a)(17), or 1912, or to a requirement to pay through the centralized collections unit under section 454B) upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

''(G) SECURE ASSETS TO SATISFY ARREARAGES.—For the purpose of securing overdue support—

''(i) to intercept and seize any periodic or lump-sum payment to the obligor by or through a State or local government agency, including—

''(I) unemployment compensation, workers' compensation, and other benefits;

''(II) judgments and settlements in cases under the jurisdiction of the State or local government; and

''(III) lottery winnings;

''(ii) to attach and seize assets of the obligor held by financial institutions;

''(iii) to attach public and private retirement funds in appropriate cases, as determined by the Secretary; and

''(iv) to impose liens in accordance with paragraph (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

''(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages (subject to such conditions or restrictions as the State may provide).

''(I) SUSPENSION OF DRIVERS' LICENSES.—To suspend drivers' licenses of individuals owing past-due support, in accordance with subsection (a)(16).

''(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

''(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

''(i) the parties to any paternity or child support proceedings are required (subject to privacy safeguards) to file with the tribunal before entry of an order, and to update as appropriate, information on location and identity (including Social Security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer); and

''(ii) in any subsequent child support enforcement action between the same parties, the tribunal shall be authorized, upon sufficient showing that diligent effort has been made to ascertain such party's current location, to deem due process requirements for notice and service of process to be met, with respect to such party, by delivery to the most recent residential or employer address so filed pursuant to clause (i).

''(B) STATEWIDE JURISDICTION.—Procedures under which—

''(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties, and orders issued in such cases have statewide effect; and

''(ii) (in the case of a State in which orders in such cases are issued by local jurisdictions) a case may be transferred between jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.''.

(c) EXCEPTIONS FROM STATE LAW REQUIREMENTS.—Section 466(d) (42 U.S.C. 666(d)) is amended—

(1) by striking ''(d) If'' and inserting the following:

''(d) EXEMPTIONS FROM REQUIREMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), if''; and

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

''(2) NONEXEMPT REQUIREMENTS.—The Secretary shall not grant an exemption from the requirements of—

''(A) subsection (a)(5) (concerning procedures for paternity establishment);

''(B) subsection (a)(10) (concerning modification of orders);

''(C) subsection (a)(12) (concerning recording of orders in the central State case registry);

''(D) subsection (a)(13) (concerning recording of Social Security numbers);

''(E) subsection (a)(14) (concerning interstate enforcement); or

''(F) subsection (c) (concerning expedited procedures), other than paragraph (1)(A) thereof (concerning establishment or modification of support amount).''.

(d) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 9415(a)(2) of this Act and as amended by sections 9421 and 9422(c) of this Act, is amended by adding at the end the following new subsection:

''(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required under this section shall be used, to the maximum extent feasible, to implement any expedited administrative procedures required under section 466(c).''.

CHAPTER 5—PATERNITY ESTABLISHMENT

SEC. 9441. SENSE OF THE CONGRESS.

It is the sense of the Congress that social services should be provided in hospitals to women who have become pregnant as a result of rape or incest.

SEC. 9442. AVAILABILITY OF PARENTING SOCIAL SERVICES FOR NEW FATHERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), and 9431 of this Act, is amended by inserting after paragraph (14) the following:

''(15) Procedures for providing new fathers with positive parenting counseling that stresses the importance of paying child support in a timely manner, in accordance with regulations prescribed by the Secretary.''.

SEC. 9443. COOPERATION REQUIREMENT AND GOOD CAUSE EXCEPTION.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking ''and'' at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting ''; and''; and

(3) by inserting after paragraph (24) the following:

''(25) provide that the State agency administering the plan under this part—

''(A) will make the determination specified under paragraph (4), as to whether an individual is cooperating with efforts to establish paternity and secure support (or has good cause not to cooperate with such efforts) for purposes of the requirements of sections 403(b)(1)(E)(i) and 1912;

''(B) will advise individuals, both orally and in writing, of the grounds for good cause exceptions to the requirement to cooperate with such efforts;

''(C) will take the best interests of the child into consideration in making the determination whether such individual has good cause not to cooperate with such efforts;

''(D)(i) will make the initial determination as to whether an individual is cooperating (or has good cause not to cooperate) with efforts to establish paternity within 10 days after such individual is referred to such State agency by the State agency administering the program under part A of title XIX;

''(ii) will make redeterminations as to cooperation or good cause at appropriate intervals; and

''(iii) will promptly notify the individual, and the State agencies administering such programs, of each such determination and redetermination;

''(E) with respect to any child born on or after the date 10 months after enactment of this provision, will not determine (or redetermine) the mother (or other custodial relative) of such child to be cooperating with efforts to establish paternity unless such individual furnishes—

''(i) the name of the putative father (or fathers); and

''(ii) sufficient additional information to enable the State agency, if reasonable efforts were made, to verify the identity of the person named as the putative father (including such information as the putative father's present address, telephone number, date of birth, past or present place of employment, school previously or currently attended, and names and addresses of parents, friends, or relatives able to provide location information, or other information that could enable service of process on such person), and

''(F)(i) (where a custodial parent who was initially determined not to be cooperating (or to have good cause not to cooperate) is later determined to be cooperating or to have good cause not to cooperate) will immediately notify the State agencies administering the programs under part A of title XIX that this eligibility condition has been met; and

''(ii) (where a custodial parent was initially determined to be cooperating (or to have good cause not to cooperate)) will not later determine such individual not to be cooperating (or not to have good cause not to

cooperate) until such individual has been afforded an opportunity for a hearing.''.

(b) MEDICAID AMENDMENTS.—Section 1912(a) (42 U.S.C. 1396k(a)) is amended—

(1) in paragraph (1)(B), by inserting ''(except as provided in paragraph (2))'' after ''to cooperate with the State'';

(2) in subparagraphs (B) and (C) of paragraph (1) by striking '', unless'' and all that follows and inserting a semicolon; and

(3) by redesignating paragraph (2) as paragraph (5), and inserting after paragraph (1) the following new paragraphs:

''(2) provide that the State agency will immediately refer each applicant or recipient requiring paternity establishment services to the State agency administering the program under part D of title IV;

''(3) provide that an individual will not be required to cooperate with the State, as provided under paragraph (1), if the individual is found to have good cause for refusing to cooperate, as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved—

''(A) to the satisfaction of the State agency administering the program under part D, as determined in accordance with section 454(25), with respect to the requirements to cooperate with efforts to establish paternity and to obtain support (including medical support) from a parent; and

''(B) to the satisfaction of the State agency administering the program under this title, with respect to other requirements to cooperate under paragraph (1);

''(4) provide that (except as provided in paragraph (5)) an applicant requiring paternity establishment services (other than an individual presumptively eligible pursuant to section 1920) shall not be eligible for medical assistance under this title until such applicant—

''(i) has furnished to the agency administering the State plan under part D of title IV the information specified in section 454(25)(E); or

''(ii) has been determined by such agency to have good cause not to cooperate; and

''(5) provide that the provisions of paragraph (4) shall not apply with respect to an applicant—

''(i) if such agency has not, within 10 days after such individual was referred to such agency, provided the notification required by section 454(25)(D)(iii), until such notification is received); and

''(ii) if such individual appeals a determination that the individual lacks good cause for noncooperation, until after such determination is affirmed after notice and opportunity for a hearing.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications filed in or after the first calendar quarter beginning 10 months or more after the date of the enactment of this Act (or such earlier quarter as the State may select) for assistance under a State plan approved under part A of title IV of the Social Security Act or for medical assistance under a State plan approved under title XIX of such Act.

SEC. 9444. FEDERAL MATCHING PAYMENTS.

(a) INCREASED BASE MATCHING RATE.—Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as follows:

''(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

''(A) for fiscal year 1996, 69 percent;

''(B) for fiscal year 1997, 72 percent; and

''(C) for fiscal year 1998 and succeeding fiscal years, 75 percent.''.

(b) MAINTENANCE OF EFFORT.—Section 455 (42 U.S.C. 655) is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking ''From'' and inserting ''Subject to subsection (c), from''; and

(2) by inserting after subsection (b) the following:

''(c) MAINTENANCE OF EFFORT.—Notwithstanding subsection (a), total expenditures for the State program under this part for fiscal year 1996 and each succeeding fiscal year, reduced by the percentage specified for such fiscal year under subparagraph (A), (B), or (C)(i) of paragraph (2), shall not be less than such total expenditures for fiscal year 1995, reduced by 66 percent.''.

SEC. 9445. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended—

(1) by striking ''(5)'' and inserting the following:

''(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—'';

(2) in subparagraph (A)—

(A) by striking ''(A)(i)'' and inserting the following:

''(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE EIGHTEEN.—(i)''; and

(B) by indenting clauses (i) and (ii) so that the left margin of such clauses is 2 ems to the right of the left margin of paragraph (4);

(3) in subparagraph (B)—

(A) by striking ''(B)'' and inserting the following:

''(B) PROCEDURES CONCERNING GENETIC TESTING.—(i)'';

(B) in clause (i), as redesignated, by inserting before the period '', where such request is supported by a sworn statement (I) by such party alleging paternity setting forth facts establishing a reasonable possibility of the requisite sexual contact of the parties, or (II) by such party denying paternity setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact of the parties;'';

(C) by inserting after and below clause (i) (as redesignated) the following new clause:

''(ii) Procedures which require the State agency, in any case in which such agency orders genetic testing—

''(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the putative father if paternity is established; and

''(II) to obtain additional testing in any case where an original test result is disputed, upon request and advance payment by the disputing party.'';

(4) by striking subparagraphs (C) and (D) and inserting the following:

''(C) PATERNITY ACKNOWLEDGMENT.—(i) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the putative father and the mother must be given notice, orally, in writing, and in a language that each can understand, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

''(ii) Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

''(iii) Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

''(iv) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies. The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as, voluntary paternity establishment programs of hospitals and birth record agencies.

''(v) Such procedures must require the State and those required to establish paternity to use only the affidavit developed under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State.

''(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—(i) Procedures under which a signed acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within 60 days.

''(ii)(I) Procedures under which, after the 60-day period referred to in clause (i), a signed acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

''(II) Procedures under which, after the 60-day period referred to in clause (i), a minor who signs an acknowledgment of paternity other than in the presence of a parent or court-appointed guardian ad litem may rescind the acknowledgment in a judicial or administrative proceeding, until the earlier of—

''(aa) attaining the age of majority; or

''(bb) the date of the first judicial or administrative proceeding brought (after the signing) to establish a child support obligation, visitation rights, or custody rights with respect to the child whose paternity is the subject of the acknowledgment, and at which the minor is represented by a parent, guardian ad litem, or attorney.'';

(5) by striking subparagraph (E) and inserting the following:

''(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which no judicial or administrative proceedings are required or permitted to ratify an unchallenged acknowledgment of paternity.'';

(6) by striking subparagraph (F) and inserting the following:

''(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

''(i) requiring that the State admit into evidence, for purposes of establishing paternity, results of any genetic test that is—

''(I) of a type generally acknowledged, by accreditation bodies designated by the Secretary, as reliable evidence of paternity; and

''(II) performed by a laboratory approved by such an accreditation body;

''(ii) that any objection to genetic testing results must be made in writing not later than a specified number of days before any hearing at which such results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of such results); and

''(iii) that, if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.''; and

(7) by adding after subparagraph (H) the following new subparagraphs:

''(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to jury trial.

''(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

''(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth,

and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services and testing on behalf of the child.

''(L) WAIVER OF STATE DEBTS FOR COOPERATION.—At the option of the State, procedures under which the tribunal establishing paternity and support has discretion to waive rights to all or part of amounts owed to the State (but not to the mother) for costs related to pregnancy, childbirth, and genetic testing and for public assistance paid to the family where the father cooperates or acknowledges paternity before or after genetic testing.

''(M) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.''.

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting '', and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security account number of each parent'' before the semicolon.

(c) TECHNICAL AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking ''a simple civil process for voluntarily acknowledging paternity and''.

SEC. 9446. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

(a) STATE PLAN REQUIREMENT.—Section 454(23) (42 U.S.C. 654(23)) is amended by adding at the end the following new subparagraph:

''(C) publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support through a variety of means, which—

''(i) include distribution of written materials at health care facilities (including hospitals and clinics), and other locations such as schools;

''(ii) may include pre-natal programs to educate expectant couples on individual and joint rights and responsibilities with respect to paternity (and may require all expectant recipients of assistance under part A to participate in such pre-natal programs, as an element of cooperation with efforts to establish paternity and child support);

''(iii) include, with respect to each child discharged from a hospital after birth for whom paternity or child support has not been established, reasonable follow-up efforts (including at least one contact of each parent whose whereabouts are known, except where there is reason to believe such follow-up efforts would put mother or child at risk), providing—

''(I) in the case of a child for whom paternity has not been established, information on the benefits of and procedures for establishing paternity; and

''(II) in the case of a child for whom paternity has been established but child support has not been established, information on the benefits of and procedures for establishing a child support order, and an application for child support services;''.

(b) ENHANCED FEDERAL MATCHING.—Section 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

(1) by inserting ''(i)'' before ''laboratory costs'', and

(2) by inserting before the semicolon '', and (ii) costs of outreach programs designed to encourage voluntary acknowledgment of paternity''.

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall become effective October 1, 1997.

(2) The amendments made by subsection (b) shall be effective with respect to calendar quarters beginning on and after October 1, 1996.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 9451. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the ''National Child Support Guidelines Commission'' (in this section referred to as the ''Commission'').

(b) GENERAL DUTIES.—The Commission shall develop a national child support guideline for consideration by the Congress that is based on a study of various guideline models, the benefits and deficiencies of such models, and any needed improvements.

(c) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed jointly by the Secretary of Health and Human Services and the Congress, not later than January 15, 1997, of which—

(i) 2 shall be appointed by the Chairman of the Committee on Finance of the Senate, and 1 shall be appointed by the ranking minority member of the Committee;

(ii) 2 shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives, and 1 shall be appointed by the ranking minority member of the Committee; and

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least 1 member shall represent advocacy groups for custodial parents, at least 1 member shall represent advocacy groups for noncustodial parents, and at least 1 member shall be the director of a State program under part D of title IV of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 2 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(e) REPORT.—Not later than 2 years after the appointment of members, the Commission shall submit to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a recommended national child support guideline and a final assessment of issues relating to such a proposed national child support guideline.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

SEC. 9452. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

(a) IN GENERAL.—Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

''(10) PROCEDURES FOR MODIFICATION OF SUPPORT ORDERS.—

''(A)(i) Procedures under which—

''(I) every 3 years, at the request of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with such guidelines, without a requirement for any other change in circumstances; and

''(II) upon request at any time of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) based on a substantial change in the circumstances of either such parent.

''(ii) Such procedures shall require both parents subject to a child support order to be notified of their rights and responsibilities provided for under clause (i) at the time the order is issued and in the annual information exchange form provided under subparagraph (B).

''(B) Procedures under which each child support order issued or modified in the State after the effective date of this subparagraph shall require the parents subject to the order to provide each other with a complete statement of their respective financial condition annually on a form which shall be established by the Secretary and provided by the State. The Secretary shall establish regulations for the enforcement of such exchange of information.''.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 9461. FEDERAL INCOME TAX REFUND OFFSET.

(a) CHANGED ORDER OF REFUND DISTRIBUTION UNDER INTERNAL REVENUE CODE.—Section 6402(c) of the Internal Revenue Code of 1986 is amended by striking the 3rd sentence.

(b) ELIMINATION OF DISPARITIES IN TREATMENT OF ASSIGNED AND NON-ASSIGNED ARREARAGES.—(1) Section 464(a) (42 U.S.C. 664(a)) is amended—

(A) by striking ''(a)'' and inserting ''(a) OFFSET AUTHORIZED.—'';

(B) in paragraph (1)—

(i) in the first sentence, by striking ''which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)''; and

(ii) in the second sentence, by striking ''in accordance with section 457 (b)(4) or (d)(3)'' and inserting ''as provided in paragraph (2)'';

(C) in paragraph (2), to read as follows:

''(2) The State agency shall distribute amounts paid by the Secretary of the Treasury pursuant to paragraph (1)—

''(A) in accordance with section 457(a)(4) or (d)(3), in the case of past-due support assigned to a State pursuant to section 403(b)(1)(E)(i) or 471(a)(17); and

''(B) to or on behalf of the child to whom the support was owed, in the case of past-due support not so assigned.'';

(D) in paragraph (3)—

(i) by striking ''or (2)'' each place it appears; and

(ii) in subparagraph (B), by striking ''under paragraph (2)'' and inserting ''on account of past-due support described in paragraph (2)(B)''.

(2) Section 464(b) (42 U.S.C. 664(b)) is amended—

(A) by striking ''(b)(1)'' and inserting ''(b) REGULATIONS.—''; and

(B) by striking paragraph (2).

(3) Section 464(c) (42 U.S.C. 664(c)) is amended—

(A) by striking ''(c)(1) Except as provided in paragraph (2), as'' and inserting ''(c) DEFINITION.—As''; and

(B) by striking paragraphs (2) and (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1999.

SEC. 9462. INTERNAL REVENUE SERVICE COLLECTION OF ARREARS.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6305(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by inserting ''except as provided in paragraph (5)'' after ''collected'';

(2) by striking ''and'' at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting a comma;

(4) by adding after paragraph (4) the following new paragraph:

''(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor.''; and

(5) by striking ''Secretary of Health, Education, and Welfare'' each place it appears and inserting ''Secretary of Health and Human Services''.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 9463. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—

(1) Section 459 (42 U.S.C. 659) is amended in the caption by inserting ''INCOME WITHHOLDING,'' before ''GARNISHMENT''.

(2) Section 459(a) (42 U.S.C. 659(a)) is amended—

(A) by striking ''(a)'' and inserting ''(a) CONSENT TO SUPPORT ENFORCEMENT.—

(B) by striking ''section 207'' and inserting ''section 207 of this Act and 38 U.S.C. 5301''; and

(C) by striking all that follows ''a private person,'' and inserting ''to withholding in accordance with State law pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary thereunder, and to any other legal process brought, by a State agency administering a program under this part or by an individual obligee, to enforce the legal obligation of such individual to provide child support or alimony.''.

(3) Section 459(b) (42 U.S.C. 659(b)) is amended to read as follows:

''(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.— Except as otherwise provided herein, each entity specified in subsection (a) shall be subject, with respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or to any other order or process to enforce support obligations against an individual (if such order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), to the same requirements as would apply if such entity were a private person.''.

(4) Section 459(c) (42 U.S.C. 659(c)) is redesignated and relocated as paragraph (2) of subsection (f), and is amended—

(A) by striking ''responding to interrogatories pursuant to requirements imposed by section 461(b)(3)'' and inserting ''taking actions necessary to comply with the requirements of subsection (A) with regard to any individual''; and

(B) by striking ''any of his duties'' and all that follows and inserting ''such duties.''.

(5) Section 461 (42 U.S.C. 661) is amended by striking subsection (b), and section 459 (42 U.S.C. 659) is amended by inserting after subsection (b) (as added by paragraph (3) of this subsection) the following:

''(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS.—(1) The head of each agency subject to the requirements of this section shall—

''(A) designate an agent or agents to receive orders and accept service of process; and

''(B) publish (i) in the appendix of such regulations, (ii) in each subsequent republication of such regulations, and (iii) annually in the Federal Register, the designation of such agent or agents, identified by title of position, mailing address, and telephone number.''.

(6) Section 459 (42 U.S.C. 659) is amended by striking subsection (d) and by inserting after subsection (c)(1) (as added by paragraph (5) of this subsection) the following:

''(2) Whenever an agent designated pursuant to paragraph (1) receives notice pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatories, with respect to an individual's child support or alimony payment obligations, such agent shall—

''(A) as soon as possible (but not later than fifteen days) thereafter, send written notice of such notice or service (together with a copy thereof) to such individual at his duty station or last-known home address;

''(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to subsection (a)(1) or (b) of section 466, comply with all applicable provisions of such section 466; and

''(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatories, respond thereto.''.

(7) Section 461 (42 U.S.C. 661) is amended by striking subsection (c), and section 459 (42 U.S.C. 659) is amended by inserting after subsection (c) (as added by paragraph (5) and amended by paragraph (6) of this subsection) the following:

''(d) PRIORITY OF CLAIMS.—In the event that a governmental entity receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than one person—

''(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

''(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by the provisions of such section 466(b) and regulations thereunder; and

''(3) such moneys as remain after compliance with subparagraphs (A) and (B) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.''.

(8) Section 459(e) (42 U.S.C. 659(e)) is amended by striking ''(e)'' and inserting the following:

''(e) NO REQUIREMENT TO VARY PAY CYCLES.—''.

(9) Section 459(f) (42 U.S.C. 659(f)) is amended by striking ''(f)'' and inserting the following:

''(f) RELIEF FROM LIABILITY.—(1)''.

(10) Section 461(a) (42 U.S.C. 661(a)) is redesignated and relocated as section 459(g), and is amended—

(A) by striking ''(g)'' and inserting the following:

''(g) REGULATIONS.—''; and

(B) by striking ''section 459'' and inserting ''this section''.

(11) Section 462 (42 U.S.C. 662) is amended by striking subsection (f), and section 459 (42 U.S.C. 659) is amended by inserting the following after subsection (g) (as added by paragraph (10) of this subsection):

''(h) MONEYS SUBJECT TO PROCESS.—(1) Subject to subsection (i), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

''(A) consist of—

''(i) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

''(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

''(I) under the insurance system established by title II;

''(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

''(III) as compensation for death under any Federal program;

''(IV) under any Federal program established to provide 'black lung' benefits; or

''(V) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death (except any compensation paid by such Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation); and

''(iii) worker's compensation benefits paid under Federal or State law; but

''(B) do not include any payment—

''(i) by way of reimbursement or otherwise, to defray expenses incurred by such individual in carrying out duties associated with his employment; or

''(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.''.

(12) Section 462(g) (42 U.S.C. 662(g)) is redesignated and relocated as section 459(i) (42 U.S.C. 659(i)).

(13)(A) Section 462 (42 U.S.C. 662) is amended—

(i) in subsection (e)(1), by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii); and

(ii) in subsection (e), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B).

(B) Section 459 (42 U.S.C. 659) is amended by adding at the end the following:

''(j) DEFINITIONS.—For purposes of this section—''.

(C) Subsections (a) through (e) of section 462 (42 U.S.C. 662), as amended by subparagraph (A) of this paragraph, are relocated and redesignated as paragraphs (1) through (4), respectively of section 459(j) (as added by subparagraph (B) of this paragraph, (42 U.S.C. 659(j)), and the left margin of each of such paragraphs (1) through (4) is indented 2 ems to the right of the left margin of subsection (i) (as added by paragraph (12) of this subsection).

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661), as amended by subsection (a) of this section, are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by

striking ''sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)'' and inserting ''section 459 of the Social Security Act (42 U.S.C. 659)''.

(c) MILITARY RETIRED AND RETAINER PAY.—(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by adding after subparagraph (C) the following new paragraph:

''(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a State program under part D of title IV of the Social Security Act).'';

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended by inserting ''or a court order for the payment of child support not included in or accompanied by such a decree or settlement,'' before ''which—''.

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by striking ''to spouse'' and inserting ''to (or for benefit of)''; and

(B) in paragraph (1), in the first sentence, by inserting ''(or for the benefit of such spouse or former spouse to a State central collections unit or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)'' before ''in an amount sufficient''.

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

''(j) RELATIONSHIP TO OTHER LAWS.—In any case involving a child support order against a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of the Social Security Act.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 9464. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection:

(A) The term ''court'' has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term ''child support'' has the meaning given such term in section 462 of the Social Security Act (42 U.S.C. 662).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection (i):

''(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order or an order of an administrative process established under State law for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.''.

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the first sentence the following: ''In the case of a spouse or former spouse who, pursuant to section 403(b)(1)(E)(i) of the Social Security Act, assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.''.

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

''(6) In the case of a court order or an order of an administrative process established under State law for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisy the amount of child support set forth in a court order or an order of an administrative process established under State law shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.''.

SEC. 9465. MOTOR VEHICLE LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended—

(1) by striking ''(4) Procedures'' and inserting the following:

''(4) LIENS.—

''(A) IN GENERAL.—Procedures''; and

(2) by adding at the end the following new subparagraph:

''(B) MOTOR VEHICLE LIENS.—Procedures for placing liens for arrears of child support on motor vehicle titles of individuals owing such arrears equal to or exceeding two months of support, under which—

''(i) any person owed such arrears may place such a lien;

''(ii) the State agency administering the program under this part shall systematically place such liens;

''(iii) expedited methods are provided for—

''(I) ascertaining the amount of arrears;

''(II) affording the person owing the arrears or other titleholder to contest the amount of arrears or to obtain a release upon fulfilling the support obligation;

''(iv) such a lien has precedence over all other encumbrances on a vehicle title other than a purchase money security interest; and

''(v) the individual or State agency owed the arrears may execute on, seize, and sell the property in accordance with State law.''.

SEC. 9466. VOIDING OF FRAUDULENT TRANSFERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, and 9442 of this Act, is amended by inserting after paragraph (15) the following:

''(16) FRAUDULENT TRANSFERS.—Procedures under which—

''(A) the State has in effect—

''(i) the Uniform Fraudulent Conveyance Act of 1981,

''(ii) the Uniform Fraudulent Transfer Act of 1984, or

''(iii) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

''(B) in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

''(i) seek to void such transfer; or

''(ii) obtain a settlement in the best interests of the child support creditor.''.

SEC. 9467. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, and 9466 of this Act, is amended by inserting after paragraph (16) the following:

''(17) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority (subject to appropriate due process safeguards) to withhold or suspend, or to restrict the use of driver's licenses, and professional and occupational licenses of individuals owing overdue child support or failing, after receiving appropriate notice, to comply with

subpoenas or warrants relating to paternity or child support proceedings.''.

SEC. 9468. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

''(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—(A) Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any absent parent who is delinquent by 90 days or more in the payment of support, and the amount of overdue support owed by such parent.

''(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent parent is reported—

''(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

''(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency.''.

SEC. 9469. EXTENDED STATUTE OF LIMITATION FOR COLLECTION OF ARREARAGES.

(a) AMENDMENTS.—Section 466(a)(9) (42 U.S.C. 666(a)(9)) is amended—

(1) by striking ''(9) Procedures'' and inserting the following:

''(9) LEGAL TREATMENT OF ARREARS.—

''(A) FINALITY.—Procedures'';

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by indenting each of such clauses 2 additional ems to the right; and

(3) by adding after and below subparagraph (A), as redesignated, the following new subparagraph:

''(B) STATUTE OF LIMITATIONS.—Procedures under which the statute of limitations on any arrearages of child support extends at least until the child owed such support is 30 years of age.''.

(b) APPLICATION OF REQUIREMENT.—The amendment made by this section shall not be read to require any State law to revive any payment obligation which had lapsed prior to the effective date of such State law.

SEC. 9470. CHARGES FOR ARREARAGES.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, and 9467 of this Act, is amended by inserting after paragraph (17) the following:

''(18) CHARGES FOR ARREARAGES.—Procedures providing for the calculation and collection of interest or penalties for arrearages of child support, and for distribution of such interest or penalties collected for the benefit of the child (except where the right to support has been assigned to the State).''.

(b) REGULATIONS.—The Secretary of Health and Human Services shall establish by regulation a rule to resolve choice of law conflicts arising in the implementation of the amendment made by subsection (a).

(c) CONFORMING AMENDMENT.—Section 454(21) (42 U.S.C. 654(21)) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to arrearages accruing on or after October 1, 1998.

SEC. 9471. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by sections 9415(a)(3) and 9417 of this Act, is amended by adding at the end the following new subsection:

''(l) CERTIFICATIONS FOR PURPOSES OF PASSPORT RESTRICTIONS.—

''(1) IN GENERAL.—Where the Secretary receives a certification by a State agency in accordance with the requirements of section 454(28) that an individual owes arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to section 9471(b) of the Omnibus Budget Reconciliation Act of 1995.

''(2) LIMIT ON LIABILITY.—The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.''.

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), and 9422(a) of this Act, is amended—

(A) by striking ''and'' at the end of paragraph (26);

(B) by striking the period at the end of paragraph (27) and inserting ''; and''; and

(C) by adding after paragraph (27) the following new paragraph:

''(28) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(l) (concerning denial of passports) determinations that individuals owe arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, under which procedure—

''(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

''(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.''.

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—

(1) IN GENERAL.—The Secretary of State, upon certification by the Secretary of Health and Human Services, in accordance with section 452(l) of the Social Security Act, that an individual owes arrearages of child support in excess of $5,000, shall refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

(2) LIMIT ON LIABILITY.—The Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1996.

SEC. 9472. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) SENSE OF THE CONGRESS THAT THE UNITED STATES SHOULD RATIFY THE UNITED NATIONS CONVENTION OF 1956.—It is the sense of the Congress that the United States should ratify the United Nations Convention of 1956.

(b) TREATMENT OF INTERNATIONAL CHILD SUPPORT CASES AS INTERSTATE CASES.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), 9422(a), and 9471(a)(2) of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting ''; and''; and

(3) by inserting after paragraph (28) the following:

''(29) provide that the State must treat international child support cases in the same manner as the State treats interstate child support cases.''.

SEC. 9473. SEIZURE OF LOTTERY WINNINGS, SETTLEMENTS, PAYOUTS, AWARDS, AND BEQUESTS, AND SALE OF FORFEITED PROPERTY, TO PAY CHILD SUPPORT ARREARAGES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, and 9470(a) of this Act, is amended by inserting after paragraph (18) the following:

''(19) Procedures, in addition to other income withholding procedures, under which a lien is imposed against property with the following effect:

''(A) The person required to make a payment under a policy of insurance or a settlement of a claim made with respect to the policy shall—

''(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

''(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

''(B) The payor of any amount pursuant to an award, judgment, or settlement in any action brought in Federal or State court shall—

''(i) suspend the payment of the amount until an inquiry is made to and a response is received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

''(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

''(C) The payor of any amount pursuant to an award, judgment, or settlement in any action brought in Federal or State court shall—

''(i) suspend the payment of the amount until an inquiry is made to and a response is received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

''(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

''(D) If the State seizes property forfeited to the State by an individual by reason of a criminal conviction, the State shall—

''(i) hold the property until an inquiry is made to and a response is received from the agency as to whether the individual owes a child support arrearage; and

''(ii) if there is such an arrearage, sell the property and, after satisfying the claims of all other private or public claimants to the property and deducting from the proceeds of the sale the attendant costs (such as for towing, storage, and the sale), pay the lesser of the remaining proceeds or the amount of the arrearage directly to the agency for distribution.''.

''(E) Any person required to make a payment in respect of a decedent shall—

''(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

''(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.''.

SEC. 9474. LIABILITY OF GRANDPARENTS FOR FINANCIAL SUPPORT OF CHILDREN OF THEIR MINOR CHILDREN.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, 9470(a), and 9473 of this Act, is amended by inserting after paragraph (19) the following:

''(20) Procedures under which each parent of an individual who has not attained 18 years of age is liable for the financial support of any child of the individual to the extent that the individual is unable to provide such support. The preceding sentence shall not apply to the State if the State plan explicitly provides for such inapplicability.''.

SEC. 9475. SENSE OF THE CONGRESS REGARDING PROGRAMS FOR NONCUSTODIAL PARENTS UNABLE TO MEET CHILD SUPPORT OBLIGATIONS.

It is the sense of the Congress that the States should develop programs, such as the

program of the State of Wisconsin known as the ''Children's First Program'', that are designed to work with noncustodial parents who are unable to meet their child support obligations.

CHAPTER 8—MEDICAL SUPPORT

SEC. 9481. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking ''issued by a court of competent jurisdiction'';

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

''if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued by an administrative adjudicator and has the force and effect of law under applicable State law.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the first plan year beginning on or after January 1, 1996, if—

(A) during the period after the date before the date of the enactment of this Act and before such first plan year, the plan is operated in accordance with the requirements of the amendments made by this section, and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such first plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

CHAPTER 9—FOOD STAMP PROGRAM REQUIREMENTS

SEC. 9491. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended adding at the end the following:

''(i) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

''(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

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

''(B) in obtaining support for—

''(i) the child; or

''(ii) the individual and the child.

''(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

''(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

''(j) NON-CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

''(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

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

''(B) in providing support for the child.

''(2) REFUSAL TO COOPERATE.—

''(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

''(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

''(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

''(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.''.

SEC. 9492. DISQUALIFICATION FOR CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 9491 of this Act, is amended by adding at the end the following:

''(k) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

''(1) IN GENERAL.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

''(A) a court is allowing the individual to delay payment; or

''(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.''.

CHAPTER 10—EFFECT OF ENACTMENT

SEC. 9498. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) provisions of this title requiring enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this title shall become effective upon enactment.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this title shall become effective with respect to a State on the later of—

(1) the date specified in this title, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this title if it is unable to comply without amending the State constitution until the earlier of—

(1) the date one year after the effective date of the necessary State constitutional amendment, or

(2) the date five years after enactment of this title.

SEC. 9499. SEVERABILITY.

If any provision of this title or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this title which can be given effect without regard to the invalid provision or application, and to this end the provisions of this title shall be severable.

Subtitle E—Teen Pregnancy and Family Stability

SEC. 9502. SUPERVISED LIVING ARRANGEMENTS FOR MINORS.

(a) IN GENERAL.—Section 402(c), as added by section 9101(a) of this Act, is amended by adding at the end the following:

''(8) SUPERVISED LIVING ARRANGEMENTS FOR MINORS.—The State plan shall provide that—

''(A) except as provided in subparagraph (B), in the case of any individual who is under age 18 and has never married, and who has a needy child in his or her care (or is pregnant and is eligible for temporary employment assistance under the State plan)—

''(i) such individual may receive such assistance for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home; and

''(ii) such assistance (where possible) shall be provided to the parent, legal guardian, or other adult relative on behalf of such individual and child; and

''(B)(i) in the case of an individual described in clause (ii)—

''(I) the State agency shall assist such individual in locating an appropriate adult-supervised supportive living arrangement taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual (and child, if any) reside in such living arrangement as a condition of the continued

receipt of assistance under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate), or

''(II) if the State agency is unable, after making diligent efforts, to locate any such appropriate living arrangement, the State agency shall provide for comprehensive case management, monitoring, and other social services consistent with the best interests of the individual (and child) while living independently (as determined by the State agency); and

''(ii) for purposes of clause (i), an individual is described in this clause if—

''(I) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

''(II) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

''(III) the State agency determines that the physical or emotional health of such individual or any needy child of the individual would be jeopardized if such individual and such needy child lived in the same residence with such individual's own parent or legal guardian; or

''(IV) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that it is in the best interest of the needy child to waive the requirement of subparagraph (A) with respect to such individual.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9503. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

(a) IN GENERAL.—Title XX (42 U.S.C. 1397–1397f), as amended by section 9205(b) of this Act, is amended by adding at the end the following:

''SEC. 2010. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

''(a) NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.—

''(1) ESTABLISHMENT.—The responsible Federal officials shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to adolescent pregnancy prevention programs, to be known as the 'National Clearinghouse on Adolescent Pregnancy Prevention Programs'.

''(2) FUNCTIONS.—The national center established under paragraph (1) shall serve as a national information and data clearinghouse, and as a training, technical assistance, and material development source for adolescent pregnancy prevention programs. Such center shall—

''(A) develop and maintain a system for disseminating information on all types of adolescent pregnancy prevention program and on the state of adolescent pregnancy prevention program development, including information concerning the most effective model programs;

''(B) develop and sponsor a variety of training institutes and curricula for adolescent pregnancy prevention program staff;

''(C) identify model programs representing the various types of adolescent pregnancy prevention programs;

''(D) develop technical assistance materials and activities to assist other entities in establishing and improving adolescent pregnancy prevention programs;

''(E) develop networks of adolescent pregnancy prevention programs for the purpose of sharing and disseminating information; and

''(F) conduct such other activities as the responsible Federal officials find will assist in developing and carrying out programs or activities to reduce adolescent pregnancy.

''(b) FUNDING.—The responsible Federal officials shall make grants to eligible entities for the establishment and operation of a National Clearinghouse on Adolescent Pregnancy Prevention Programs under subsection (a) so that in the aggregate the expenditures for such grants do not exceed $2,000,000 for fiscal year 1996, $4,000,000 for fiscal year 1997, $8,000,000 for fiscal year 1998, and $10,000,000 for fiscal year 1999 and each subsequent fiscal year.

''(c) DEFINITIONS.—As used in this section:

''(1) ADOLESCENTS.—The term 'adolescents' means youth who are ages 10 through 19.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a partnership that includes—

''(A) a local education agency, acting on behalf of one or more schools, together with

''(B) one or more community-based organizations, institutions of higher education, or public or private agencies or organizations.

''(3) ELIGIBLE AREA.—The term 'eligible area' means a school attendance area in which—

''(A) at least 75 percent of the children are from low-income families as that term is used in part A of title I of the Elementary and Secondary Education Act of 1965; or

''(B) the number of children receiving assistance under a State plan approved under part A of title IV of this Act is substantial as determined by the responsible Federal officials; or

''(C) the unmarried adolescent birth rate is high, as determined by the responsible Federal officials.

''(4) SCHOOL.—The term 'school' means a public elementary, middle, or secondary school.

''(5) RESPONSIBLE FEDERAL OFFICIALS.—The term 'responsible Federal officials' means the Secretary of Education, the Secretary of Health and Human Services, and the Chief Executive Officer of the Corporation for National and Community Service.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective January 1, 1996.

SEC. 9504. REQUIRED COMPLETION OF HIGH SCHOOL OR OTHER TRAINING FOR TEENAGE PARENTS.

(a) IN GENERAL.—Section 403(b)(1)(D), as added by section 9101(a) of this Act, is amended—

(1) by inserting ''(i)'' after ''(D)''; and

(2) by adding at the end the following:

''(ii) in the case of a client who is a custodial parent who is under age 18 (or age 19, at the option of the State), has not successfully completed a high-school education (or its equivalent), and is required to participate in the Work First program (including an individual who would otherwise be exempt from participation in the program), shall provide that—

''(I) such parent participate in—

''(aa) educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis; or

''(bb) an alternative educational or training program on a full-time (as defined by the provider) basis; and

''(II) child care be provided in accordance with section 2009 with respect to the family.''.

(b) STATE OPTION TO PROVIDE ADDITIONAL INCENTIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN PARENTING ACTIVITIES.—

(1) STATE PLAN.—Section 403(b)(1)(D), as amended by subsection (a) of this section, is amended by adding at the end the following:

''(iii) at the option of the State, may provide that the client who is a custodial parent or pregnant woman who is under age 19 (or age 21, at the option of the State) participate in a program of monetary incentives and penalties which—

''(I) may, at the option of the State, require full-time participation by such custodial parent or pregnant woman in secondary school or equivalent educational activities, or participation in a course or program leading to a skills certificate found appropriate by the State agency or parenting education activities (or any combination of such activities and secondary education);

''(II) shall require that the needs of such custodial parent or pregnant woman be reviewed and the program assure that, either in the initial development or revision of such individual's individual responsibility plan, there will be included a description of the services that will be provided to the client and the way in which the program and service providers will coordinate with the educational or skills training activities in which the client is participating;

''(III) shall provide monetary incentives (to be treated as assistance under the State plan) for more than minimally acceptable performance of required educational activities;

''(IV) shall provide penalties (which may be those required by subsection (e) or, with the approval of the Secretary, other monetary penalties that the State finds will better achieve the objectives of the program) for less than minimally acceptable performance of required activities;

''(V) shall provide that when a monetary incentive is payable because of the more than minimally acceptable performance of required educational activities by a custodial parent, the incentive be paid directly to such parent, regardless of whether the State agency makes payment of assistance under the State plan directly to such parent; and

''(VI) for purposes of any other Federal or federally-assisted program based on need, shall not consider any monetary incentive paid under the State plan as income in determining a family's eligibility for or amount of benefits under such program, and if assistance is reduced by reason of a penalty under this clause, such other program shall treat the family involved as if no such penalty has been applied.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9505. DENIAL OF FEDERAL HOUSING BENEFITS TO MINORS WHO BEAR CHILDREN OUT-OF-WEDLOCK.

(a) PROHIBITION OF ASSISTANCE.—Notwithstanding any other provision of law, a household whose head of household is an individual who has borne a child out-of-wedlock before attaining 18 years of age may not be provided Federal housing assistance for a dwelling unit until attaining such age, unless—

(1) after the birth of the child—

(A) the individual marries an individual who has been determined by the relevant State to be the biological father of the child; or

(B) the biological parent of the child has legal custody of the child and marries an individual who legally adopts the child;

(2) the individual is a biological and custodial parent of another child who was not born out-of-wedlock; or

(3) eligibility for such Federal housing assistance is based in whole or in part on any disability or handicap of a member of the household.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) COVERED PROGRAM.—The term ''covered program'' means—

(A) the program of rental assistance on behalf of low-income families provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(B) the public housing program under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

(C) the program of rent supplement payments on behalf of qualified tenants pursuant to contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

(D) the program of interest reduction payments pursuant to contracts entered into by the Secretary of Housing and Urban Development under section 236 of the National Housing Act (12 U.S.C. 1715z–1);

(E) the program for mortgage insurance provided pursuant to sections 221(d) (3) or (4) of the National Housing Act (12 U.S.C. 1715l(d)) for multifamily housing for low- and moderate-income families;

(F) the rural housing loan program under section 502 of the Housing Act of 1949 (42 U.S.C. 1472);

(G) the rural housing loan guarantee program under section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h));

(H) the loan and grant programs under section 504 of the Housing Act of 1949 (42 U.S.C. 1474) for repairs and improvements to rural dwellings;

(I) the program of loans for rental and cooperative rural housing under section 515 of the Housing Act of 1949 (42 U.S.C. 1485);

(J) the program of rental assistance payments pursuant to contracts entered into under section 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)(A));

(K) the loan and assistance programs under sections 514 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1486) for housing for farm labor;

(L) the program of grants and loans for mutual and self-help housing and technical assistance under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c);

(M) the program of grants for preservation and rehabilitation of housing under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m); and

(N) the program of site loans under section 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

(2) COVERED PROJECT.—The term ''covered project'' means any housing for which Federal housing assistance is provided that is attached to the project or specific dwelling units in the project.

(3) FEDERAL HOUSING ASSISTANCE.—The term ''Federal housing assistance'' means—

(A) assistance provided under a covered program in the form of any contract, grant, loan, subsidy, cooperative agreement, loan or mortgage guarantee or insurance, or other financial assistance; or

(B) occupancy in a dwelling unit that is—

(i) provided assistance under a covered program; or

(ii) located in a covered project and subject to occupancy limitations under a covered program that are based on income.

(4) STATE.—The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(c) LIMITATIONS ON APPLICABILITY.—Subsection (a) shall not apply to Federal housing assistance provided for a household pursuant to an application or request for such assistance made by such household before the effective date of this Act if the household was receiving such assistance on the effective date of this Act.

Subtitle F—SSI Reform

SEC. 9601. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended—

(1) in subparagraph (A), by striking ''An individual'' and inserting ''Except as provided in subparagraph (C), an individual'';

(2) in subparagraph (A), by striking ''(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)'';

(3) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

''(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.''; and

(5) in subparagraph (F), as so redesignated by paragraph (3) of this subsection, by striking ''(D)'' and inserting ''(E)''.

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) EFFECTIVE DATE; REGULATIONS; APPLICATION TO CURRENT RECIPIENTS.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) REGULATIONS.—The Commissioner of Social Security shall issue such regulations as the Commissioner determines to be necessary to implement the amendments made by subsections (a) and (b) not later than 60 days after the date of the enactment of this Act.

(3) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits based on a disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the amendments made by subsection (a) or (b). With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The amendments made by subsections (a) and (b), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.

(C) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

SEC. 9602. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act, is amended—

(1) by inserting ''(i)'' after ''(H)''; and

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

''(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, which is unlikely to improve, at the option of the Commissioner).

''(II) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.''.

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

''(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

''(I) during the 1-year period beginning on the individual's 18th birthday; and

''(II) by applying the criteria used in determining the initial eligibility for applicants who have attained the age of 18 years.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.''.

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by subsections (a) and (b) of this section, is amended by adding at the end the following new clause:

''(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's

determination that the individual is disabled.

''(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

''(III) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 9603. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) TIGHTENING OF REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) CLARIFICATION OF ROLE.—Section 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is amended by striking ''and'' at the end of subclause (II), by striking the period at the end of subclause (IV) and inserting ''; and'', and by adding after subclause (IV) the following new subclause:

''(V) advise such person through the notice of award of benefits, and at such other times as the Commissioner of Social Security deems appropriate, of specific examples of appropriate expenditures of benefits under this title and the proper role of a representative payee.''.

(2) DOCUMENTATION OF EXPENDITURES REQUIRED.—

(A) IN GENERAL.—Subparagraph (C)(i) of section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended to read as follows:

''(C)(i) In any case where payment is made to a representative payee of an individual or spouse, the Commissioner of Social Security shall—

''(I) require such representative payee to document expenditures and keep contemporaneous records of transactions made using such payment; and

''(II) implement statistically valid procedures for reviewing a sample of such contemporaneous records in order to identify instances in which such representative payee is not properly using such payment.''.

(B) CONFORMING AMENDMENT WITH RESPECT TO PARENT PAYEES.—Clause (ii) of section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended by striking ''Clause (i)'' and inserting ''Subclauses (II) and (III) of clause (i)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to benefits paid after the date of the enactment of this Act.

(b) DEDICATED SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended by adding at the end the following:

''(xiv) Notwithstanding clause (x), the Commissioner of Social Security may, at the request of the representative payee, pay any lump sum payment for the benefit of a child into a dedicated savings account that could only be used to purchase for such child—

''(I) education and job skills training;

''(II) special equipment or housing modifications or both specifically related to, and required by the nature of, the child's disability; and

''(III) appropriate therapy and rehabilitation.''.

(2) DISREGARD OF TRUST FUNDS.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(A) by striking ''and'' at the end of paragraph (10),

(B) by striking the period at the end of paragraph (11) and inserting ''; and'', and

(C) by inserting after paragraph (11) the following:

''(12) all amounts deposited in, or interest credited to, a dedicated savings account described in section 1631(a)(2)(B)(xiv).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

SEC. 9604. DENIAL OF SSI BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 9601(a)(3) of this Act, is amended by adding at the end the following:

''(J) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(2) Section 1613(a)(12) (42 U.S.C. 1382b(a)(12)) is amended by striking ''1631(a)(2)(B)(xiv)'' and inserting ''1631(a)(2)(B)(xiii)''.

(3) Section 1631(a)(2)(A)(ii) (42 U.S.C. 1383(a)(2)(A)(ii)) is amended—

(A) by striking ''(I)''; and

(B) by striking subclause (II).

(4) Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended—

(A) by striking clause (vii);

(B) in clause (viii), by striking ''(ix)'' and inserting ''(viii)'';

(C) in clause (ix)—

(i) by striking ''(viii)'' and inserting ''(vii)''; and

(ii) in subclause (II), by striking all that follows ''15 years'' and inserting a period;

(D) in clause (xiii)—

(i) by striking ''(xii)'' and inserting ''(xi)''; and

(ii) by striking ''(xi)'' and inserting ''(x)'';

(E) in clause (xiv) (as added by section 9603(b)(1) of this Act), by striking ''(x)'' and inserting ''(ix)''; and

(F) by redesignating clauses (viii) through (xiv) as clauses (vii) through (xiii), respectively.

(5) Section 1631(a)(2)(D)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking all that follows ''$25.00 per month'' and inserting a period.

(6) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(7) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is amended—

(A) by striking ''—'' and all that follows through ''(A)'' the 1st place such term appears;

(B) by striking ''and'' the 3rd place such term appears;

(C) by striking subparagraph (B);

(D) by striking ''either subparagraph (A) or subparagraph (B)'' and inserting ''the preceding sentence''; and

(E) by striking ''subparagraph (A) or (B)'' and inserting ''the preceding sentence''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995, and shall apply with respect to months beginning on or after such date.

(d) FUNDING OF CERTAIN PROGRAMS FOR DRUG ADDICTS AND ALCOHOLICS.—Out of any money in the Treasury of the United States not otherwise appropriated, the Secretary of the Treasury shall pay to the Director of the National Institute on Drug Abuse—

(1) $95,000,000, for each of fiscal years 1997, 1998, 1999, and 2000, for expenditure through the Federal Capacity Expansion Program to expand the availability of drug treatment; and

(2) $5,000,000 for each of fiscal years 1997, 1998, 1999, and 2000 to be expended solely on the medication development project to improve drug abuse and drug treatment research.

SEC. 9605. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following:

''(5) An individual shall not be considered an eligible individual for purposes of this title during the 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States under programs that are funded under part A of title IV, or title XIX of this Act, the consolidated program of food assistance under chapter 2 of subtitle E of title XIV of the Omnibus Budget Reconciliation Act of 1995, or the Food Stamp Act of 1977 (as in effect before the effective date of such chapter), or benefits in 2 or more States under the supplemental security income program under title XVI of this Act.''.

SEC. 9606. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 9604(b)(1) of this Act, is amended by inserting after paragraph (2) the following:

''(3) A person shall not be an eligible individual or eligible spouse for purposes of this title with respect to any month if, throughout the month, the person is—

''(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

''(B) violating a condition of probation or parole imposed under Federal or State law.''.

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by inserting after paragraph (3) the following:

''(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of benefits under this title, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

''(A) the recipient—

''(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;

''(ii) is violating a condition of probation or parole imposed under Federal or State law; or

''(iii) has information that is necessary for the officer to conduct the officer's official duties;

''(B) the location or apprehension of the recipient is within the official duties of the officer; and

''(C) the request is made in the proper exercise of such duties.''.

SEC. 9607. REAPPLICATION REQUIREMENTS FOR ADULTS RECEIVING SSI BENEFITS BY REASON OF DISABILITY.

(a) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by section 9602 of this Act, is amended by adding at the end the following:

''(v) In the case of an individual who has attained 18 years of age and for whom a determination has been made of eligibility for a benefit under this title by reason of disability, the following applies:

''(I) Subject to the provisions of this clause, the determination of eligibility is effective for the 3-year period beginning on the date of the determination, and the eligibility of the individual lapses unless a determination of continuing eligibility is made before the end of such period, and before the end of each subsequent 3-year period. This subclause ceases to apply to the individual upon the individual attaining 65 years of age. This subclause does not apply to the individual if the individual has an impairment that is not expected to improve (or a combination of impairments that are not expected to improve).

''(II) With respect to a determination under subclause (I) of whether the individual continues to be eligible for the benefit (in this clause referred to as a 'redetermination'), the Commissioner may not make the redetermination unless the individual submits to the Commissioner an application requesting the redetermination. If such an application is submitted, the Commissioner shall make the redetermination. This subclause is subject to subclause (V).

''(III) If as of the date on which this clause takes effect the individual has been receiving the benefit for three years or less, the first period under subclause (I) for the individual is deemed to end on the expiration of the period beginning on the date on which this clause takes effect and continuing through a number of months equal to 12 plus a number equal to 36 minus the number of months the individual has been receiving the benefit.

''(IV) If as of the date on which this clause takes effect the individual has been receiving the benefit for five years or less, but for more than three years, the first period under subclause (I) for the individual is deemed to end on the expiration of the 1-year period beginning on the date on which this clause takes effect.

''(V) If as of the date on which this clause takes effect the individual has been receiving the benefit for more than five years, the Commissioner shall make redeterminations under subclause (I) and may not require the individual to submit applications for the redeterminations. The first 3-year period under subclause (I) for the individual is deemed to begin upon the expiration of the period beginning on the date on which this clause takes effect and ending upon the termination of a number of years equal to the lowest number (greater than zero) that can be obtained by subtracting the number of years that the individual has been receiving the benefit from a number that is a multiple of three.

''(VI) If the individual first attains 18 years of age on or after the date on which this clause takes effect, the first 3-year period under subclause (I) for the individual is deemed to end on the date on which the individual attains such age.

''(VII) Not later than one year prior to the date on which a determination under subclause (I) expires, the Commissioner shall (except in the case of an individual to whom subclause (V) applies) provide to the individual a written notice explaining the applicability of this clause to the individual, including an explanation of the effect of failing to submit the application. If the individual submits the application not later than 180 days prior to such date and the Commissioner does not make the redetermination before such date, the Commissioner shall continue to provide the benefit pending the redetermination and shall publish in the Federal Register a notice that the Commissioner was unable to make the redetermination by such date.

''(VIII) If the individual fails to submit the application under subclause (II) by the end of the applicable period under subclause (I), the individual may apply for a redetermination. The Commissioner shall make the redetermination for the individual only after making redeterminations for individuals for whom eligibility has not lapsed pursuant to subclause (I).''.

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For redeterminations of eligibility pursuant to section 1614(a)(3)(H)(v) of the Social Security Act, there are authorized to be appropriated to the Commissioner of Social Security not more than $100,000,000 for fiscal years 1996 through 2000.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect upon the expiration of the 9-month period beginning on the date of the enactment of this Act.

SEC. 9608. NARROWING OF SSI ELIGIBILITY ON BASIS OF MENTAL IMPAIRMENTS.

(a) IN GENERAL.—Section 1614(a)(3)(A) (42 U.S.C. 1382c(a)(3)(A)) is amended by adding at the end the following sentence: ''In making determinations under this clause regarding the severity of mental impairments, the Secretary shall revise the regulations under subpart P of part 404 of title 20, Code of Federal Regulations, to accomplish the result that (relative to such regulations as in effect prior to the date on which this sentence takes effect) less weight is given to criteria regarding concentration, persistence (and pace), and ability to tolerate increased mental demand associated with competitive work, and that, accordingly, the eligibility criteria regarding mental impairments are narrowed.''.

(b) FINAL REGULATIONS.—The final rule for the regulations required in subsection (a) shall be issued before the expiration of the 9-month period beginning on the date of the enactment of this Act, and shall take effect upon the expiration of such period.

SEC. 9609. REDUCTION IN UNEARNED INCOME EXCLUSION.

(a) IN GENERAL.—Section 1612(b)(3)(A) (42 U.S.C. 1382a(b)(3)(A)) is amended by striking ''$20'' and inserting ''$15''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits for months beginning after December 31, 1995.

Subtitle G—Food Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 9701. APPLICATION OF AMENDMENTS.

The amendments made by this chapter shall not apply with respect to certification periods beginning before the effective date of this chapter.

SEC. 9702. AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

(a) CERTIFICATION PERIOD.—(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended to read as follows:

''(c) 'Certification period' means the period specified by the State agency for which households shall be eligible to receive authorization cards, except that such period shall be—

''(1) 24 months for households in which all adult members are elderly or disabled; and

''(2) not more than 12 months for all other households.''.

(2) Section 6(c)(1)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)(C)) is amended—

(A) in clause (ii) by adding ''and'' at the end;

(B) in clause (iii) by striking ''; and'' at the end and inserting a period; and

(C) by striking clause (iv).

(b) ENERGY ASSISTANCE COUNTED AS INCOME.—

(1) LIMITING EXCLUSION.—Section 5(d)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(11)) is amended—

(A) by striking ''(A) under any Federal law, or (B)''; and

(B) by inserting before the comma at the end the following: '', except that no benefits provided under the State program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall be excluded under this clause''.

(2) CONFORMING AMENDMENTS.—

(A) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking the ninth through the twelfth sentences.

(B) Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended by striking subparagraph (C) and redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

(C) Section 5(k) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)) is amended by adding at the end the following:

''(4) For purposes of subsection (d)(1), any payments or allowances made under any Federal or State law for the purposes of energy assistance shall be treated as money payable directly to the household.''.

(D) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8634(f)) is amended—

(i) in paragraph (1), by striking ''food stamps'';

(ii) by striking ''(f)(1) Notwithstanding'' and inserting ''(f) Notwithstanding''; and

(iii) by striking paragraph (2).

(c) EXCLUSION OF CERTAIN JTPA INCOME.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (d)—

(A) by striking ''and (16)'' and inserting ''(16)''; and

(B) by inserting before the period at the end the following: '', and (17) income received under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) by a household member who is less than 19 years of age''; and

(2) in subsection (*l*), by striking ''under section 204(b)(1)(C)'' and all that follows and inserting ''shall be considered earned income for purposes of the food stamp program.''.

(d) EXCLUSION OF LIFE INSURANCE POLICIES.—Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

''(6) The Secretary shall exclude from financial resources the cash value of any life insurance policy owned by a member of a household.''.

(e) IN-TANDEM EXCLUSIONS FROM INCOME.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end the following:

''(n) Whenever a Federal statute enacted after the date of the enactment of this Act excludes funds from income for purposes of determining eligibility, benefit levels, or both under State plans approved under part A of title IV of the Social Security Act, then such funds shall be excluded from income for purposes of determining eligibility, benefit levels, or both, respectively, under the food stamp program of households all of whose members receive benefits under a State plan approved under part A of title IV of the Social Security Act.''.

SEC. 9703. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: ''The Secretary is authorized to issue regulations establishing specific time periods during which authorization to accept and redeem coupons under the food stamp program shall be valid.''.

SEC. 9704. SPECIFIC PERIOD FOR PROHIBITING PARTICIPATION OF STORES BASED ON LACK OF BUSINESS INTEGRITY.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)), as amended by section 9703, is amended by adding at the end the following: ''The Secretary is authorized to issue regulations establishing specific time periods during which a retail food store or wholesale food concern that has an application for approval to accept and redeem coupons denied or that has such an approval withdrawn on the basis of business integrity and reputation cannot submit a new application for approval. Such periods shall reflect the severity of business integrity infractions that are the basis of such denials or withdrawals.''.

SEC. 9705. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence by inserting '', which may include relevant income and sales tax filing documents,'' after ''submit information'' ; and

(2) by inserting after the first sentence the following: ''The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources in order that the accuracy of information provided by such stores and concerns may be verified.''.

SEC. 9706. WAITING PERIOD FOR STORES THAT INITIALLY FAIL TO MEET AUTHORIZATION CRITERIA.

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: ''Regulations issued pursuant to this Act shall prohibit a retail food store or wholesale food concern that has an application for approval to accept and redeem coupons denied because it does not meet criteria for approval established by the Secretary in regulations from submitting a new application for six months from the date of such denial.''.

SEC. 9707. BASES FOR SUSPENSIONS AND DISQUALIFICATIONS.

Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)) is amended by adding at the end the following: ''Regulations issued pursuant to this Act shall provide criteria for the finding of violations and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence which may include, but is not limited to, facts established through on-site investigations, inconsistent redemption data, or evidence obtained through transaction reports under electronic benefit transfer systems.''.

SEC. 9708. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)), as amended by section 9707, is amended by adding at the end the following: ''Such regulations may establish criteria under which the authorization of a retail food store or wholesale food concern to accept and redeem coupons may be suspended at the time such store or concern is initially found to have committed violations of program requirements. Such suspension may coincide with the period of a review as provided in section 14. The Secretary shall not be liable for the value of any sales lost during any suspension or disqualification period.''.

(b) Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) in the first sentence by inserting ''suspended,'' before ''disqualified or subjected'';

(2) in the fifth sentence by inserting before the period at the end the following: '', except that in the case of the suspension of a retail food store or wholesale food concern pursuant to section 12(a), such suspension shall remain in effect pending any administrative or judicial review of the proposed disqualification action, and the period of suspension shall be deemed a part of any period of disqualification which is imposed.''; and

(3) by striking the last sentence.

SEC. 9709. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED FROM THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

''(g) The Secretary shall issue regulations providing criteria for the disqualification of approved retail food stores and wholesale food concerns that are otherwise disqualified from accepting benefits under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) authorized under section 17 of the Child Nutrition Act of 1966. Such disqualification—

''(1) shall be for the same period as the disqualification from the WIC Program;

''(2) may begin at a later date; and

''(3) notwithstanding section 14 of this Act, shall not be subject to administrative or judicial review.''.

SEC. 9710. PERMANENT DEBARMENT OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021), as amended by section 9709, is amended by adding at the end the following:

''(h) The Secretary shall issue regulations providing for the permanent disqualification of a retail food store or wholesale food concern that is determined to have knowingly submitted an application for approval to accept and redeem coupons which contains false information about one or more substantive matters which were the basis for providing approval. Any disqualification imposed under this subsection shall be subject to administrative and judicial review pursuant to section 14, but such disqualification shall remain in effect pending such review.''.

SEC. 9711. EXPANDED CIVIL AND CRIMINAL FORFEITURE FOR VIOLATIONS OF THE FOOD STAMP ACT.

(a) FORFEITURE OF ITEMS EXCHANGED IN FOOD STAMP TRAFFICKING.—Section 15(g) of the Food Stamp Act of 1977 (7 U.S.C. 2024(g)) is amended by striking ''or intended to be furnished''.

(b) CIVIL AND CRIMINAL FORFEITURE.—Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024)) is amended by adding at the end the following:

''(h)(1) CIVIL FORFEITURE FOR FOOD STAMP BENEFIT VIOLATIONS.—

''(A) Any food stamp benefits and any property, real or personal—

''(i) constituting, derived from, or traceable to any proceeds obtained directly or indirectly from, or

''(ii) used, or intended to be used, to commit, or to facilitate,

the commission of a violation of subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall be subject to forfeiture to the United States.

''(B) The provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures shall extend to a seizure or forfeiture under this subsection, insofar as applicable and not inconsistent with the provisions of this subsection.

''(2) CRIMINAL FORFEITURE FOR FOOD STAMP BENEFIT VIOLATIONS.—

''(A)(i) Any person convicted of violating subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall forfeit to the United States, irrespective of any State law—

''(I) any food stamp benefits and any property constituting, or derived from, or traceable to any proceeds such person obtained directly or indirectly as a result of such violation; and

''(II) any food stamp benefits and any of such person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation.

''(ii) In imposing sentence on such person, the court shall order that the person forfeit to the United States all property described in this subsection.

''(B) All food stamp benefits and any property subject to forfeiture under this subsection, any seizure and disposition thereof, and any administrative or judicial proceeding relating thereto, shall be governed by subsections (b), (c), (e), and (g) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), insofar as applicable and not inconsistent with the provisions of this subsection.

''(3) APPLICABILITY.—This subsection shall not apply to property specified in subsection (g) of this section.

''(4) RULES.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this subsection.''.

SEC. 9712. EXPANDED AUTHORITY FOR SHARING INFORMATION PROVIDED BY RETAILERS.

(a) Section 205(c)(2)(C)(iii) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(iii)) (as amended by section 316(a) of the Social Security Administrative Reform Act of 1994 (Public Law 103–296; 108 Stat. 1464) is amended—

(1) by inserting in the first sentence of subclause (II) after ''instrumentality of the United States'' the following: '', or State government officers and employees with law enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)'';

(2) by inserting in the last sentence of subclause (II) immediately after ''other Federal'' the words ''or State''; and

(3) by inserting ''or a State'' in subclause (III) immediately after ''United States''.

(b) Section 6109(f)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6109(f)(2)) (as added by section 316(b) of the Social Security Administrative Reform Act of 1994 (Public Law 103–296; 108 Stat. 1464)) is amended—

(1) by inserting in subparagraph (A) after ''instrumentality of the United States'' the following: '', or State government officers and employees with law enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)'';

(2) in the last sentence of subparagraph (A) by inserting ''or State'' after ''other Federal''; and

(3) in subparagraph (B) by inserting ''or a State'' after ''United States''.

SEC. 9713. EXPANDED DEFINITION OF "COUPON".

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking ''or type of certificate'' and inserting ''type of

certificate, authorization cards, cash or checks issued of coupons or access devices, including, but not limited to, electronic benefit transfer cards and personal identification numbers''.

SEC. 9714. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—

(1) in clause (i)—

(A) by striking ''six months'' and inserting ''1 year''; and

(B) by adding ''and'' at the end; and

(2) striking clauses (ii) and (iii) and inserting the following:

''(ii) permanently upon—

''(I) the second occasion of any such determination; or

''(II) the first occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), firearms, ammunition, or explosives for coupons.''.

SEC. 9715. MANDATORY CLAIMS COLLECTION METHODS.

(a) Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting ''or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A'' before the semicolon at the end.

(b) Section 13(d) of the Food Stamp Act of 1977 (7 U.S.C. 2022(d)) is amended—

(1) by striking ''may'' and inserting ''shall''; and

(2) by inserting ''or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A'' before the period at the end.

(c) Section 6103(1) of the Internal Revenue Code (26 U.S.C. 6103(1)) is amended—

(1) by striking ''officers and employees'' in paragraph (10)(A) and inserting ''officers, employees or agents, including State agencies''; and

(2) by striking ''officers and employees'' in paragraph (10)(B) and inserting ''officers, employees or agents, including State agencies''.

SEC. 9716. PROMOTING EXPANSION OF ELECTRONIC BENEFITS TRANSFER.

Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(1)) is amended—

(1) by amending paragraph (1) to read:

''(1)(A) State agencies are encouraged to implement an on-line electronic benefit transfer system in which household benefits determined under section 8(a) are issued from and stored in a central data bank and electronically accessed by household members at the point-of-sale.

''(B) Subject to paragraph (2), a State agency is authorized to procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency deems appropriate.

''(C) The Secretary shall, upon request of a State agency, waive any provision of this subsection prohibiting the effective implementation of an electronic benefit transfer system consistent with the purposes of this Act. The Secretary shall act upon any request for such a waiver within 90 days of receipt of a complete application.'';

(2) in paragraph (2), by striking ''for the approval''; and

(3) in paragraph (3), by striking ''the Secretary shall not approve such a system unless'' and inserting ''the State agency shall ensure that''.

SEC. 9717. REDUCTION OF BASIC BENEFIT LEVEL.

Section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking ''and (11)'' and inserting ''(11)'';

(2) in clause (11) by inserting ''through October 1, 1994'' after ''each October 1 thereafter''; and

(3) by inserting before the period at the end the following:

'', and (12) on October 1, 1995, and on each October 1 thereafter, adjust the cost of such diet to reflect 100 percent of the cost, in the preceding June (without regard to any previous adjustment made under this clause or clauses (4) through (11) of this subsection) and round the result to the nearest lower dollar increment for each household size''.

SEC. 9718. 2-YEAR FREEZE OF STANDARD DEDUCTION.

The second sentence of section 5(e)(4) (7 U.S.C. 2014(e)(4)) is amended by inserting '', except October 1, 1995, and October 1, 1996'' after ''thereafter''.

SEC. 9719. PRO-RATING BENEFITS AFTER INTERRUPTIONS IN PARTICIPATION.

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

SEC. 9720. DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491 and 9492, is amended by adding at the end the following:

''(*l*) DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.—An individual shall be ineligible to participate in the food stamp program as a member of any household during a 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual to receive benefits simultaneously from 2 or more States under—

''(1) the food stamp program;

''(2) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under title XIX of the Act (42 U.S.C. 1396 et seq.); or

''(3) the supplemental security income program under title XVI of the Act (42 U.S.C. 1381 et seq.).''.

SEC. 9721. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, and 9720, is amended by adding at the end the following:

''(m) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

''(1) IN GENERAL.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

''(A) a court is allowing the individual to delay payment; or

''(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.''.

SEC. 9722. STATE AUTHORIZATION TO ASSIST LAW ENFORCEMENT OFFICERS IN LOCATING FUGITIVE FELONS.

Section 11(e)(8)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(B)) is amended by striking ''Act, and'' and inserting ''Act or of locating a fugitive felon (as defined by a State), and''.

SEC. 9723. WORK REQUIREMENT FOR ABLE-BODIED RECIPIENTS.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, 9720, and 9721, is amended by adding at the end the following:

''(n) WORK REQUIREMENT.—

''(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—

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

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

''(C) a program of employment or training operated or supervised by a State or local government, as determined appropriate by the Secretary.

''(2) WORK REQUIREMENT.—No individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12 months, the individual received food stamp benefits for not less than 6 months during which the individual did not—

''(A) work 20 hours or more per week, averaged monthly;

''(B) participate in a workfare program under section 20 or a comparable State or local workfare program;

''(C) participate in and comply with the requirements of an approved employment and training program under subsection (d)(4); or

''(D) participate in and comply with the requirements of a work program for 20 hours or more per week.

''(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—

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

''(B) medically certified as physically or mentally unfit for employment;

''(C) a parent or other member of a household with a dependent child under 18 years of age; or

''(D) otherwise exempt under subsection (d)(2).

''(4) WAIVER.—

''(A) IN GENERAL.—The Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

''(i) has an unemployment rate of over 8 percent; or

''(ii) does not have a sufficient number of jobs to provide employment for the individuals.

''(B) REPORT.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.''.

(b) WORK AND TRAINING PROGRAMS.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended by adding at the end the following:

''(O) REQUIRED PARTICIPATION IN WORK AND TRAINING PROGRAMS.—A State agency shall provide an opportunity to participate in the employment and training program under this paragraph to any individual who would otherwise become subject to disqualification under subsection (i).

''(P) COORDINATING WORK REQUIREMENTS.—

''(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, a State agency that meets the participation requirements of clause (ii) may operate the employment and training program of the State for individuals who are members of households receiving allotments under this Act as part of a program operated by the State under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), subject to the requirements of the Act.

''(ii) PARTICIPATION REQUIREMENTS.—A State agency may exercise the option under clause (i) if the State agency provides an opportunity to participate in an approved employment and training program to an individual who is—

''(I) subject to subsection (i);

''(II) not employed at least an average of 20 hours per week;

''(III) not participating in a workfare program under section 20 (or a comparable State or local program); and

''(IV) not subject to a waiver under subsection (i)(4).''.

(c) ENHANCED EMPLOYMENT AND TRAINING PROGRAM.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A), by striking ''$75,000,000 for each of the fiscal years 1991 through 1995'' and inserting ''$150,000,000 for each of fiscal years 1996 through 2000'';

(2) by striking subparagraphs (B), (C), (E), and (F);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B) (as redesignated by paragraph (3)), by striking ''for each'' and all that follows through ''of $60,000,000'' and inserting '', the Secretary shall allocate funding''.

SEC. 9724. COORDINATION OF EMPLOYMENT AND TRAINING PROGRAMS.

Section 8(d) of the Food Stamp Act of 1977 (7 U.S.C. 2019(d)) is amended—

(1) by striking ''(d) A household'' and inserting the following:

''(d) NONCOMPLIANCE WITH OTHER WELFARE OR WORK PROGRAMS.—

''(1) IN GENERAL.—A household''; and

(2) by inserting ''or a work requirement under a welfare or public assistance program'' after ''assistance program''; and

(3) by adding at the end the following:

''(2) WORK REQUIREMENT.—If a household fails to comply with a work requirement under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), for the duration of the reduction—

''(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of a penalty imposed for the failure to comply; and

''(B) the State agency may reduce the allotment of the household by not more than 25 percent.''.

SEC. 9725. EXTENDING CURRENT CLAIMS RETENTION RATES.

Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking ''September 30, 1995'' each place it appears and inserting ''September 30, 2002''.

SEC. 9726. NUTRITION ASSISTANCE FOR PUERTO RICO.

Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended—

(1) by striking ''1994, and'' and inserting ''1994,''; and

(2) by inserting ''and $1,143,000,000 for fiscal year 1996,'' before ''to finance''.

SEC. 9727. TREATMENT OF CHILDREN LIVING AT HOME.

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

CHAPTER 2—COMMODITY DISTRIBUTION

SEC. 9751. SHORT TITLE.

This chapter may be cited as the ''Commodity Distribution Act of 1995''.

SEC. 9752. AVAILABILITY OF COMMODITIES.

(a) Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter in this chapter referred to as the ''Secretary'') is authorized during fiscal years 1996 through 2000 to purchase a variety of nutritious and useful commodities and distribute such commodities to the States for distribution in accordance with this chapter.

(b) In addition to the commodities described in subsection (a), the Secretary may expend funds made available to carry out the section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), which are not expended or needed to carry out such section, to purchase, process, and distribute commodities of the types customarily purchased under such section to the States for distribution in accordance to this chapter.

(c) In addition to the commodities described in subsections (a) and (b), agricultural commodities and the products thereof made available under clause (2) of the second sentence of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), may be made available by the Secretary to the States for distribution in accordance with this chapter.

(d) In addition to the commodities described in subsections (a), (b), and (c), commodities acquired by the Commodity Credit Corporation that the Secretary determines, in the discretion of the Secretary, are in excess of quantities needed to—

(1) carry out other domestic donation programs;

(2) meet other domestic obligations;

(3) meet international market development and food aid commitments, and

(4) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938, the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act; shall be made available by the Secretary, without charge or credit for such commodities, to the States for distribution in accordance with this chapter.

(e) During each fiscal year, the types, varieties, and amounts of commodities to be purchased under this chapter shall be determined by the Secretary. In purchasing such commodities, except those commodities purchased pursuant to section 9760, the Secretary shall, to the extent practicable and appropriate, make purchases based on—

(1) agricultural market conditions;

(2) the preferences and needs of States and distributing agencies; and

(3) the preferences of the recipients.

SEC. 9753. STATE, LOCAL AND PRIVATE SUPPLEMENTATION OF COMMODITIES.

(a) The Secretary shall establish procedures under which State and local agencies, recipient agencies, or any other entity or person may supplement the commodities distributed under this chapter for use by recipient agencies with nutritious and wholesome commodities that such entities or persons donate for distribution, in all or part of the State, in addition to the commodities otherwise made available under this chapter.

(b) States and eligible recipient agencies may use—

(1) the funds appropriated for administrative cost under section 9759(b);

(2) equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this chapter; and

(3) the personnel, both paid or volunteer, involved in such storage, handling, or distribution; to store, handle or distribute commodities donated for use under subsection (a).

(c) States and recipient agencies shall continue, to the maximum extent practical, to use volunteer workers, and commodities and other foodstuffs donated by charitable and other organizations, in the distribution of commodities under this chapter.

SEC. 9754. STATE PLAN.

(a) A State seeking to receive commodities under this chapter shall submit a plan of operation and administration every four years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

(b) The State plan, at a minimum, shall—

(1) designate the State agency responsible for distributing the commodities received under this chapter;

(2) set forth a plan of operation and administration to expeditiously distribute commodities under this chapter in quantities requested to eligible recipient agencies in accordance with sections 9756 and 9760;

(3) set forth the standards of eligibility for recipient agencies; and

(4) set forth the standards of eligibility for individual or household recipients of commodities, which at minimum shall require—

(A) individuals or households to be comprised of needy persons; and

(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of application for assistance.

(c) The Secretary shall encourage each State receiving commodities under this chapter to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this chapter in the State.

(d) A State agency receiving commodities under this chapter may—

(1)(A) enter into cooperative agreements with State agencies of other States to jointly provide commodities received under this chapter to eligible recipient agencies that serve needy persons in a single geographical area which includes such States; or

(B) transfer commodities received under this chapter to any such eligible recipient agency in the other State under such agreement; and

(2) advise the Secretary of an agreement entered into under this subsection and the transfer of commodities made pursuant to such agreement.

SEC. 9755. ALLOCATION OF COMMODITIES TO STATES.

(a) In each fiscal year, except for those commodities purchased under section 9760, the Secretary shall allocate the commodities distributed under this chapter as follows:

(1) 60 percent of such total value of commodities shall be allocated in a manner such that the value of commodities allocated to each State bears the same ratio to 60 percent of such total value as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line. Each State shall receive the value of commodities allocated under this paragraph.

(2) 40 percent of such total value of commodities shall be allocated in a manner such that the value of commodities allocated to each State bears the same ratio to 40 percent of such total value as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year. Each State shall receive the value of commodities allocated to the State under this paragraph.

(b)(1) The Secretary shall notify each State of the amount of commodities that such State is allotted to receive under subsection (a) or this subsection, if applicable. Each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute such commodities in a manner the Secretary deems appropriate and equitable. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year in a manner the State determines

is appropriate and the Secretary shall reallocate and distribute such allocation as the Secretary deems appropriate and equitable.

(2) In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county, or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities from such unaffected State to States containing areas adversely affected by the disaster.

(c) Purchases of commodities under this chapter shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All commodities so purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allocations and reallocations made under subsections (a) and (b), and or carry out section 9760, not later than December 31 of the following fiscal year.

SEC. 9756. PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.

(a) In distributing the commodities allocated under subsections (a) and (b) of section 9755, the State agency, under procedures determined by the State agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to emergency feeding organizations.

(b) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsection (a), its remaining allocation of commodities shall be distributed to charitable institutions described in section 9763(3) not receiving commodities under subsection (a).

(c) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsections (a) and (b), its remaining allocation of commodities shall be distributed to any eligible recipient agency not receiving commodities under subsections (a) and (b).

SEC. 9757. INITIAL PROCESSING COSTS.

The Secretary may use funds of the Commodity Credit Corporation to pay the costs of initial processing and packaging of commodities to be distributed under this chapter into forms and in quantities suitable, as determined by the Secretary, for use by the individual households or eligible recipient agencies, as applicable. The Secretary may pay such costs in the form of Corporation-owned commodities equal in value to such costs. The Secretary shall ensure that any such payments in kind will not displace commercial sales of such commodities.

SEC. 9758. ASSURANCES; ANTICIPATED USE.

(a) The Secretary shall take such precautions as the Secretary deems necessary to ensure that commodities made available under this chapter will not displace commercial sales of such commodities or the products thereof. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate by December 31, 1997, and not less than every two years thereafter, a report as to whether and to what extent such displacements or substitutions are occurring.

(b) The Secretary shall determine that commodities provided under this chapter shall be purchased and distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under this chapter in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities.

SEC. 9759. AUTHORIZATION OF APPROPRIATIONS.

(a) PURCHASE OF COMMODITIES.—To carry out this chapter, there are authorized to be appropriated $260,000,000 for each of the fiscal years 1996 through 2000 to purchase, process, and distribute commodities to the States in accordance with this chapter.

(b) ADMINISTRATIVE FUNDS.—

(1) There are authorized to be appropriated $40,000,000 for each of the fiscal years 1996 through 2000 for the Secretary to make available to the States for State and local payments for costs associated with the distribution of commodities by eligible recipient agencies under this chapter, excluding costs associated with the distribution of those commodities distributed under section 9760. Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis dividing such funds among the States in the same proportions as the commodities distributed under this chapter for such fiscal year are allocated among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States in a manner the Secretary deems appropriate and equitable.

(2)(A) A State shall make available in each fiscal year to eligible recipient agencies in the State not less than 40 percent of the funds received by the State under paragraph (1) for such fiscal year, as necessary to pay for, or provide advance payments to cover, the allowable expenses of eligible recipient agencies for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such recipient agencies.

(B) As used in this paragraph, the term ''allowable expenses'' includes—

(i) costs of transporting, storing, handling, repackaging, processing, and distributing commodities incurred after such commodities are received by eligible recipient agencies;

(ii) costs associated with determinations of eligibility, verification, and documentation;

(iii) costs of providing information to persons receiving commodities under this chapter concerning the appropriate storage and preparation of such commodities; and

(iv) costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this chapter.

(C) If a State makes a payment, using State funds, to cover allowable expenses of eligible recipient agencies, the amount of such payment shall be counted toward the amount a State must make available for allowable expenses of recipient agencies under this paragraph.

(3) States to which funds are allocated for a fiscal year under this subsection shall submit financial reports to the Secretary, on a regular basis, as to the use of such funds. No such funds may be used by States or eligible recipient agencies for costs other than those involved in covering the expenses related to the distribution of commodities by eligible recipient agencies.

(4)(A) Except as provided in subparagraph (B), to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

(i) the amount of such funds so received; and

(ii) any part of the amount allocated to the State and paid by the State—

(I) to eligible recipient agencies; or

(II) for the allowable expenses of such recipient agencies;for use in carrying out this chapter.

(B) Funds allocated to a State under this section may, upon State request, be allocated before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required. The Secretary shall periodically reconcile estimated and actual contributions and adjust allocations to the State to correct for overpayments and underpayments.

(C) Any funds distributed for administrative costs under section 9760(b) shall not be covered by this paragraph.

(5) States may not charge for commodities made available to eligible recipient agencies, and may not pass on to such recipient agencies the cost of any matching requirements, under this chapter.

(c) VALUE OF COMMODITIES.—The value of the commodities made available under subsections (c) and (d) of section 9752, and the funds of the Corporation used to pay the costs of initial processing, packaging (including forms suitable for home use), and delivering commodities to the States shall not be charged against appropriations authorized by this section.

SEC. 9760. COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) From the funds appropriated under section 9759(a), $94,500,000 shall be used for each fiscal year to purchase and distribute commodities to supplemental feeding programs serving woman, infants, and children or elderly individuals (hereinafter in this section referred to as the ''commodity supplemental food program''), or serving both groups wherever located.

(b) Not more than 20 percent of the funds made available under subsection (a) shall be made available to the States for State and local payments of administrative costs associated with the distribution of commodities by eligible recipient agencies under this section. Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

(c)(1) During each fiscal year the commodity supplemental food program is in operation, the types, varieties, and amounts of commodities to be purchased under this section shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or amounts from those that were available or were planned at the beginning of the fiscal year the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1996 through 2000 to the Secretary. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program before the end of each fiscal year.

(d) The Secretary shall, in each fiscal year, approve applications of additional sites for the program, including sites that serve only elderly persons, in areas in which the program currently does not operate, to the full extent that applications can be approved within the appropriations available for the

program for the fiscal year and without reducing actual participation levels (including participation of elderly persons under subsection (e)) in areas in which the program is in effect.

(e) If a local agency that administers the commodity supplemental food program determines that the amount of funds made available to the agency to carry out this section exceeds the amount of funds necessary to provide assistance under such program to women, infants, and children, the agency, with the approval of the Secretary, may permit low-income elderly persons (as defined by the Secretary) to participate in and be served by such program.

(f)(1) If it is necessary for the Secretary to pay a significantly higher than expected price for one or more types of commodities purchased under this section, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.

(g) Commodities distributed to States pursuant to this section shall not be considered in determining the commodity allocation to each State under section 9755 or priority of distribution under section 9756.

SEC. 9761. COMMODITIES NOT INCOME.

Notwithstanding any other provision of law, commodities distributed under this chapter shall not be considered income or resources for purposes of determining recipient eligibility under any Federal, State, or local means-tested program.

SEC. 9762. PROHIBITION AGAINST CERTAIN STATE CHARGES.

Whenever a commodity is made available without charge or credit under this chapter by the Secretary for distribution within the States to eligible recipient agencies, the State may not charge recipient agencies any amount that is in excess of the State's direct costs of storing, and transporting to recipient agencies the commodities minus any amount the Secretary provides the State for the costs of storing and transporting such commodities.

SEC. 9763. DEFINITIONS.

As used in this chapter:

(1) The term ''average monthly number of unemployed persons'' means the average monthly number of unemployed persons within a State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

(2) The term ''elderly persons'' means individuals 60 years of age or older.

(3) The term ''eligible recipient agency'' means a public or nonprofit organization that administers—

(A) an institution providing commodities to supplemental feeding programs serving women, infants, and children or serving elderly persons, or serving both groups;

(B) an emergency feeding organization;

(C) a charitable institution (including hospitals and retirement homes and excluding penal institutions) to the extent that such institution serves needy persons;

(D) a summer camp for children, or a child nutrition program providing food service;

(E) a nutrition project operating under the Older Americans Act of 1965, including such projects that operate a congregate nutrition site and a project that provides home-delivered meals; or

(F) a disaster relief program; and that has been designated by the appropriate State agency, or by the Secretary, and approved by the Secretary for participation in the program established under this chapter.

(4) The term ''emergency feeding organization'' means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

(5) The term ''food bank'' means a public and charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products thereof, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

(6) The term ''food pantry'' means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

(7) The term ''needy persons'' means—

(A) individuals who have low incomes or who are unemployed, as determined by the State (in no event shall the income of such individual or household exceed 185 percent of the poverty line);

(B) households certified as eligible to participate in the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(C) individuals or households participating in any other Federal, or federally assisted, means-tested program.

(8) The term ''poverty line'' has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(9) The term ''soup kitchen'' means a public and charitable institution that, as integral part of its normal activities, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

SEC. 9764. REGULATIONS.

(a) The Secretary shall issue regulations within 120 days to implement this chapter.

(b) In administering this chapter, the Secretary shall minimize, to the maximum extent practicable, the regulatory, recordkeeping, and paperwork requirements imposed on eligible recipient agencies.

(c) The Secretary shall as early as feasible but not later than the beginning of each fiscal year, publish in the Federal Register a nonbinding estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available under the commodity distribution program under this chapter during the fiscal year.

(d) The regulations issued by the Secretary under this section shall include provisions that set standards with respect to liability for commodity losses for the commodities distributed under this chapter in situations in which there is no evidence of negligence or fraud, and conditions for payment to cover such losses. Such provisions shall take into consideration the special needs and circumstances of eligible recipient agencies.

SEC. 9765. FINALITY OF DETERMINATIONS.

Determinations made by the Secretary under this chapter and the facts constituting the basis for any donation of commodities under this chapter, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

SEC. 9766. RELATIONSHIP TO OTHER PROGRAMS.

(a) Section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)) shall not apply with respect to the distribution of commodities under this chapter.

(b) Except as otherwise provided in section 9757, none of the commodities distributed under this chapter shall be sold or otherwise disposed of in commercial channels in any form.

SEC. 9767. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

(a) The Secretary may—

(1) determine the amount of, settle, and adjust any claim arising under this chapter; and

(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this chapter.

(b) Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

SEC. 9768. REPEALERS; AMENDMENTS.

(a) REPEALER.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is repealed.

(b) AMENDMENTS.—

(1) The Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(A) by striking section 110; and

(B) by striking section 502.

(2) The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking section 4.

(3) The Charitable Assistance and Food Bank Act of 1987 (7 U.S.C. 612c note) is amended by striking section 3.

(4) The Food Security Act of 1985 (7 U.S.C. 612c note) is amended—

(A) by striking section 1562(a) and section 1571; and

(B) in section 1562(d), by striking ''section 4 of the Agricultural and Consumer Protection Act of 1973'' and inserting ''section 9752 of the Commodity Distribution Act of 1995''.

SEC. 10201. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL CAPITAL GAIN NET INCOME.

(a) IN GENERAL.—Paragraph (2) of section 32(i) of the Internal Revenue Code of 1986 (relating to denial of credit for individuals having excessive investment income) is amended—

(1) by striking ''and'' at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting '', and'', and

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

''(D) capital gain net income for the taxable year.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

SEC. 10301. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES

"Sec. 59B. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

"SEC. 59B. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

"(a) IMPOSITION OF TAX.—In the case of a corporation to which this section applies, there is hereby imposed an alternative minimum tax equal to 4 percent of net business receipts of the corporation for the taxable year.

"(b) TAXPAYERS TO WHICH SECTION APPLIES.—This section shall apply to any corporation, foreign or domestic, if—

"(1) gross sales in the United States during the tax year of parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, exceeded $10,000,000,

"(2) during that same tax year parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, with a customs value in excess of $10,000,000 were imported into the United States, and

"(3) its tax obligation under this section exceeds its total tax obligation under all other sections of the Internal Revenue Code of 1986.

"(c) CREDIT FOR TAXES PAID.—There shall be a nonrefundable credit against the taxes owed under this section equal to the total of all other taxes paid by the corporation under the Internal Revenue Code of 1986.

"(d) DEFINITIONS.—For purposes of this section:

"(cc) a family or group day care home that is operated by a provider whose household meets the eligibility standards for free or reduced price meals under section 9 and whose income is verified by a sponsoring organization under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be $1 for lunches and suppers, 40 cents for breakfasts, and 20 cents for supplements.

"(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the eligibility standards for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the eligibility standards, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the eligibility standards under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that serves the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the eligibility standards under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) SPONSOR PAYMENTS.—Section 17(f)(3)(B) of the National School Lunch Act is amended—

(A) by striking the period at the end of the second sentence and all that follows through the end of the subparagraph and inserting the following:", except that the adjustment that otherwise would occur on July 1, 1996, shall be made on August 1, 1996. The maximum allowable levels for administrative expense payments shall be rounded to the nearest lower dollar increment and based on the unrounded adjustment for the preceding 12-month period.";

(B) by striking "(B)" and inserting "(B)(i)"; and

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

"(ii) The maximum allowable level of administrative expense payments shall be adjusted by the Secretary—

"(I) to increase by 7.5 percent the monthly payment to family or group day care home sponsoring organizations both for tier I family or group day care homes and for those tier II family or group day care homes for which the sponsoring organization administers a means test as provided under subparagraph (A)(iii); and

"(II) to decrease by 7.5 percent the monthly payment to family or group day care home sponsoring organizations for family or group day care homes that do not meet the criteria for tier I homes and for which a means test is not administered.".

(3) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

''(bb) training and other assistance to family and group day care homes in the implementation of the amendments to subparagraph (A) made by section 574(b)(1) of the Family Self-Sufficiency Act of 1995.

''(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(II)—

''(I) $30,000 in base funding to each State; and

''(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State in 1994 as a percentage of the number of all family day care homes participating in the program in 1994.

''(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for a fiscal year under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

''(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A) (as amended by section 134(b)(1) of the Family Self-Sufficiency Act of 1995).''.

(4) PROVISION OF DATA.—Section 17(f)(3) of the National School Lunch Act (as amended by paragraph (3)) is further amended by adding at the end the following:

''(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

''(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

''(ii) SCHOOL DATA.—

''(I) IN GENERAL.—A State agency administering the program under this section shall annually provide to a family or group day care home sponsoring organizations that request the data, a list of schools serving elementary school children in the State in which at least 50 percent of the children enrolled are certified to receive free or reduced price meals. State agencies administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall collect such data annually and provide such data on a timely basis to the State agency administering the program under this section.

''(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

''(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.''.

(5) CONFORMING AMENDMENTS.—Section 17(c) of the National School Lunch Act is amended by inserting ''except as provided in subsection (f)(3),'' after ''For purposes of this section,'' each place it appears in paragraphs (1), (2), and (3).

(c) DISALLOWING MEAL CLAIMS.—The fourth sentence of section 17(f)(4) of the National School Lunch Act is amended by inserting ''(including institutions that are not family or group day care home sponsoring organizations)'' after ''institutions''.

(d) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the National School Lunch Act is amended by striking subsection (k) and inserting the following:

''(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (b) shall become effective on August 1, 1996.

(3) IMPLEMENTATION.—The Secretary of Agriculture shall issue regulations to implement the amendments made by paragraphs (1), (2), (3), and (4) of subsection (b) and the provisions of section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)) not later than February 1, 1996. If such regulations are issued in interim form, final regulations shall be issued not later than August 1, 1996.

SEC. 9782. RESUMPTION OF DISCRETIONARY FUNDING FOR NUTRITION EDUCATION AND TRAINING PROGRAM.

Section 19(i)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)(2)(A)) is amended—

(1) by striking ''Out of'' and all that follows through ''and $10,000,000'' and inserting ''To carry out the provisions of this section, there is hereby authorized to be appropriated not to exceed $10,000,000''; and

(2) by striking the last sentence.

Subtitle H—Treatment of Aliens

SEC. 9801. EXTENSION OF DEEMING OF INCOME AND RESOURCES UNDER TEA, SSI, AND FOOD STAMP PROGRAMS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), in applying sections 407 and 1621 of the Social Security Act and section 5(i) of the Food Stamp Act of 1977, the period in which each respective section otherwise applies with respect to an alien shall be extended through the date (if any) on which the alien becomes a citizen of the United States (under chapter 2 of title III of the Immigration and Nationality Act).

(b) EXCEPTION.—Subsection (a) shall not apply to an alien if—

(1) the alien has been lawfully admitted to the United States for permanent residence, has attained 75 years of age, and has resided in the United States for at least 5 years;

(2) the alien—

(A) is a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge,

(B) is on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) is the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B);

(3) the alien is the subject of domestic violence by the alien's spouse and a divorce between the alien and the alien's spouse has been initiated through the filing of an appropriate action in an appropriate court; or

(4) there has been paid with respect to the self-employment income or employment of the alien, or of a parent or spouse of the alien, taxes under chapter 2 or chapter 21 of the Internal Revenue Code of 1986 in each of 20 different calendar quarters.

(c) HOLD HARMLESS FOR MEDICAID ELIGIBILITY.—Subsection (a) shall not apply with respect to determinations of eligibility for benefits under a State plan approved under part A of title IV of the Social Security Act or under the supplemental income security program under title XVI of such Act but only insofar as such determinations provide for eligibility for medical assistance under title XIX of such Act.

(d) RULES REGARDING INCOME AND RESOURCE DEEMING UNDER TEA PROGRAM.—Subpart 1 of part A of title IV of the Social Security Act, as added by section 9101(a) of this Act, is amended by adding at the end the following:

''SEC. 407. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

''(a) For purposes of determining eligibility for and the amount of assistance under a State plan approved under this part for an individual who is an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

''(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

''(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

''(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

''(i) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) $175;

''(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living in the same household as the sponsor who are claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making a determination under section 402(d);

''(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such

household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability; and

''(iv) any payments of alimony or child support with respect to individuals not living in such household.

''(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any month shall be determined as follows:

''(A) the total amount of the resources (determined as if the sponsor were applying for assistance under the State plan approved under this part) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined; and

''(B) the amount determined under subparagraph (A) shall be reduced by $1,500.

''(c)(1) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States, unless the State agency administering such plan determines that such sponsor either no longer exists or has become unable to meet such individual's needs; and such determination shall be made by the State agency based upon such criteria as it may specify in the State plan, and upon such documentary evidence as it may therein require. Any such individual, and any other individual who is an alien (as a condition of his or her eligibility for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States), shall be required to provide to the State agency administering such plan such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

''(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

''(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of assistance under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

''(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such alien individuals) and the income and resources of each such individual shall be deemed to include one such share.

''(2) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be considered in determining the need of other family members except to the extent such income or resources are actually available to such other members.

''(f) The provisions of this section shall not apply with respect to any alien who is—

''(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

''(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such Act;

''(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

''(4) granted political asylum by the Attorney General under section 208 of such Act; or

''(5) a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).'.

SEC. 9802. REQUIREMENTS FOR SPONSOR'S AFFIDAVITS OF SUPPORT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

''REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

''SEC. 213A. (a) ENFORCEABILITY.—

''(1) IN GENERAL.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable under section 212(a)(4) unless such affidavit is executed as a contract—

''(A) which is legally enforceable against the sponsor by the Federal Government, by a State, or by any political subdivision of a State, providing cash benefits under a public cash assistance program (as defined in subsection (f)(2)), but not later than 5 years after the date the alien last receives any such cash benefit; and

''(B) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

''(2) EXPIRATION OF LIABILITY.—Such contract shall only apply with respect to cash benefits described in paragraph (1)(A) provided to an alien before the earliest of the following:

''(A) CITIZENSHIP.—The date the alien becomes a citizen of the United States under chapter 2 of title III.

''(B) VETERAN.—The first date the alien is described in section 9801(b)(2)(A) of the Omnibus Budget Reconciliation Act of 1995.

''(C) PAYMENT OF SOCIAL SECURITY TAXES.—The first date as of which the condition described in section 9801(b)(4) of the Omnibus Budget Reconciliation Act of 1995 is met with respect to the alien.

''(3) NONAPPLICATION DURING CERTAIN PERIODS.—Such contract also shall not apply with respect to cash benefits described in paragraph (1)(A) provided during any period in which the alien is described in section 9801(b)(2)(B) or 9801(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1995.

''(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

''(c) NOTIFICATION OF CHANGE OF ADDRESS.—

''(1) REQUIREMENT.—The sponsor shall notify the Federal Government and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1)(A).

''(2) ENFORCEMENT.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

''(A) not less than $250 or more than $2,000, or

''(B) if such failure occurs with knowledge that the sponsored alien has received any benefit under any means-tested public benefits program, not less than $2,000 or more than $5,000.

''(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

''(1) REQUEST FOR REIMBURSEMENT.—

''(A) IN GENERAL.—Upon notification that a sponsored alien has received any cash benefits described in subsection (a)(1)(A), the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such cash benefits.

''(B) REGULATIONS.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

''(2) INITIATION OF ACTION.—If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

''(3) FAILURE TO ABIDE BY REPAYMENT TERMS.—If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

''(4) LIMITATION ON ACTIONS.—No cause of action may be brought under this subsection later than 5 years after the date the alien last received any cash benefit described in subsection (a)(1)(A).

''(f) DEFINITIONS.—For the purposes of this section:

''(1) SPONSOR.—The term 'sponsor' means an individual who—

''(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

''(B) is 18 years of age or over; and

''(C) is domiciled in any State.

''(2) PUBLIC CASH ASSISTANCE PROGRAM.—The term 'public cash assistance program' means a program of the Federal Government or of a State or political subdivision of a State that provides direct cash assistance for the purpose of income maintenance and in which the eligibility of an individual, household, or family eligibility unit for cash benefits under the program, or the amount of such cash benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit. Such term does not include any program insofar as it provides medical, housing, education, job training, food, or in-kind assistance or social services.''.

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

''Sec. 213A. Requirements for sponsor's affidavit of support.''.

(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section 213A.

SEC. 9803. EXTENDING REQUIREMENT FOR AFFIDAVITS OF SUPPORT TO FAMILY-RELATED AND DIVERSITY IMMIGRANTS.

(a) IN GENERAL.—Section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) is amended to read as follows:

''(4) PUBLIC CHARGE AND AFFIDAVITS OF SUPPORT.—

''(A) PUBLIC CHARGE.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

''(B) AFFIDAVITS OF SUPPORT.—Any immigrant who seeks admission or adjustment of status as any of the following is excludable unless there has been executed with respect to the immigrant an affidavit of support pursuant to section 213A:

''(i) As an immediate relative (under section 201(b)(2)).

''(ii) As a family-sponsored immigrant under section 203(a) (or as the spouse or child under section 203(d) of such an immigrant).

''(iii) As the spouse or child (under section 203(d)) of an employment-based immigrant under section 203(b).

''(iv) As a diversity immigrant under section 203(c) (or as the spouse or child under section 203(d) of such an immigrant).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens with respect to whom an immigrant visa is issued (or adjustment of status is granted) after the date specified by the Attorney General under section 9802(c).

Subtitle I—Earned Income Tax Credit

SEC. 9901. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

''(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

''(i) such individual's taxpayer identification number, and

''(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.''

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of such Code is amended by adding at the end the following new subsection:

''(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).''

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of such Code (relating to the definition of mathematical or clerical errors) is amended by striking ''and' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

''(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return, and

''(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE X—REDUCTIONS IN CORPORATE TAX SUBSIDIES AND OTHER REFORMS

SEC. 10001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—

This title may be cited as the ''Revenue Reconciliation Act of 1995''.

(b) TABLE OF CONTENTS.—

Sec. 10001. Short title; table of contents.

Subtitle A—Tax Treatment of Expatriation

Sec. 10101. Revision of tax rules on expatriation.

Sec. 10102. Basis of assets of nonresident alien individuals becoming citizens or residents.

Subtitle B—Modification to Earned Income Credit

Sec. 10201. Earned income tax credit denied to individuals with substantial capital gain net income.

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

Sec. 10301. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

Sec. 10401. Tax treatment of certain extraordinary dividends.

Subtitle E—Foreign Trust Tax Compliance

Sec. 10501. Improved information reporting on foreign trusts.

Sec. 10502. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.

Sec. 10503. Foreign persons not to be treated as owners under grantor trust rules.

Sec. 10504. Information reporting regarding foreign gifts.

Sec. 10505. Modification of rules relating to foreign trusts which are not grantor trusts.

Sec. 10506. Residence of estates and trusts, etc.

Subtitle F—Limitation on Section 936 Credit

Sec. 10601. Limitation on section 936 credit.

Subtitle A—Tax Treatment of Expatriation

SEC. 10101. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsection (f)(2), all property held by an expatriate immediately before the expatriation date shall be treated as sold at such time for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

''(3) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If an expatriate elects the application of this paragraph with respect to any property—

''(i) this section (other than this paragraph) shall not apply to such property, but

''(ii) such property shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of subsection (a)(2)).

''(C) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(D) ELECTION.—An election under subparagraph (A) shall apply only to the property described in the election and, once made, shall be irrevocable.

''(b) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this subsection) be includible in the gross income of any individual by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

''(c) PROPERTY TREATED AS HELD.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

''(1) all property which would be includible in his gross estate under chapter 11 if such individual were a citizen or resident of the United States (within the meaning of chapter 11) who died at the time the property is treated as sold,

''(2) any other interest in a trust which the individual is treated as holding under the rules of subsection (f)(1), and

''(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

''(d) EXCEPTIONS.—The following property shall not be treated as sold for purposes of this section:

''(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

''(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax- favored treatment.

''(B) FOREIGN PENSION PLANS.—

''(i) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

''(ii) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes his citizenship, or

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

An individual shall not be treated as an expatriate for purposes of this section by reason of the individual relinquishing United States citizenship before attaining the age of 18½ if the individual has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for less than 5 taxable years before the date of relinquishment.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

''(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—

''(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a)(1) is treated as occurring. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

''(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

''(ii) any taxable year prior to the taxable year referred to in clause (i).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—For purposes of this section—

''(A) GENERAL RULE.—A beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

''(B) SPECIAL RULE.—The remaining interests in the trust not determined under subparagraph (A) to be held by any beneficiary shall be allocated first to the grantor, if a beneficiary, and then to other beneficiaries under rules prescribed by the Secretary similar to the rules of intestate succession.

''(C) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(D) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(i) the methodology used to determine that taxpayer's trust interest under this section, and

''(ii) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(2) DEEMED SALE IN CASE OF TRUST INTEREST.—If an individual who is an expatriate is treated under paragraph (1) as holding an interest in a trust for purposes of this section—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

''(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate, and

''(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) RULES RELATING TO PAYMENT OF TAX.—

''(1) IMPOSITION OF TENTATIVE TAX.—

''(A) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(B) DUE DATE.—The due date for any tax imposed by subparagraph (A) shall be the 90th day after the expatriation date.

''(C) TREATMENT OF TAX.—Any tax paid under subparagraph (A) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(2) DEFERRAL OF TAX.—The payment of any tax attributable to amounts included in gross income under subsection (a) may be deferred to the same extent, and in the same manner, as any tax imposed by chapter 11, except that the Secretary may extend the period for extension of time for paying tax under section 6161 to such number of years as the Secretary determines appropriate.

''(3) RULES RELATING TO SECURITY INTERESTS.—

''(A) ADEQUACY OF SECURITY INTERESTS.—In determining the adequacy of any security to be provided under this section, the Secretary may take into account the principles of section 2056A.

''(B) SPECIAL RULE FOR TRUST.—If a taxpayer is required by this section to provide security in connection with any tax imposed by reason of this section with respect to the holding of an interest in a trust and any trustee of such trust is an individual citizen of the United States or a domestic corporation, such trustee shall be required to provide such security upon notification by the taxpayer of such requirement.

''(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

''(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

''(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent double taxation by ensuring that—

''(1) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (b),

''(2) no interest in property is treated as held for purposes of this section by more than one taxpayer, and

''(3) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(1)(C).

''(k) CROSS REFERENCE.—

''For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).''

(b) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).''

(c) CONFORMING AMENDMENTS.—

(1) Section 877 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.''

(2) Section 2107(c) of such Code is amended by adding at the end the following new paragraph:

''(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).''

(3) Section 2501(a)(3) of such Code is amended by adding at the end the following new flush sentence:

''For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).''

(4) Section 6851 of such Code is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(5) Paragraph (10) of section 7701(b) of such Code is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).''

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(1)(B) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 10102. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1061 as section 1062 and by inserting after section 1060 the following new section:

''SEC. 1061. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

''(a) GENERAL RULE.—If a nonresident alien individual becomes a citizen or resident of the United States, gain or loss on the disposition of any property held on the date the individual becomes such a citizen or resident shall be determined by substituting, as of the applicable date, the fair market value of such property (on the applicable date) for its cost basis.

''(b) EXCEPTION FOR DEPRECIATION.—Any deduction under this chapter for depreciation, depletion, or amortization shall be determined without regard to the application of this section.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) APPLICABLE DATE.—The term 'applicable date' means, with respect to any property to which subsection (a) applies, the earlier of—

''(A) the date the individual becomes a citizen or resident of the United States, or

''(B) the date the property first becomes subject to tax under this subtitle by reason of being used in a United States trade or business or by reason of becoming a United States real property interest (within the meaning of section 897(c)(1)).

''(2) RESIDENT.—The term 'resident' does not include an individual who is treated as a resident of a foreign country under the provisions of a tax treaty between the United States and a foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(3) TRUSTS.—A trust shall not be treated as an individual.

''(4) ELECTION NOT TO HAVE SECTION APPLY.—An individual may elect not to have this section apply solely for purposes of determining gain with respect to any property. Such election shall apply only to property specified in the election and, once made, shall be irrevocable.

''(5) SECTION ONLY TO APPLY ONCE.—This section shall apply only with respect to the first time the individual becomes either a citizen or resident of the United States.

''(d) REGULATIONS.—The Secretary shall prescribe regulations for purposes of this section, including regulations—

''(1) for application of this section in the case of property which consists of a direct or indirect interest in a trust, and

''(2) providing look-thru rules in the case of any indirect interest in any United States real property interest (within the meaning of section 897(c)(1)) or property used in a United States trade or business.''

(b) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 1061 and inserting the following new items:

''Sec. 1061. Basis of assets of nonresident alien individuals becoming citizens or residents.

''Sec. 1062. Cross references.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after the date of the enactment of this Act, and to any disposition occurring on or before such date to which section 877A of the Internal Revenue Code of 1986 (as added by section 611) applies.

Subtitle B—Modification to Earned Income Credit

SEC. 10201. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL CAPITAL GAIN NET INCOME.

(a) IN GENERAL.—Paragraph (2) of section 32(i) of the Internal Revenue Code of 1986 (relating to denial of credit for individuals having excessive investment income) is amended—

(1) by striking ''and'' at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting '', and'', and

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

''(D) capital gain net income for the taxable year.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Title X, Subtitle C

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

SEC. 10301. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

''PART VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES

''Sec. 59B. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

''SEC. 59B. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

''(a) IMPOSITION OF TAX.—In the case of a corporation to which this section applies, there is hereby imposed an alternative minimum tax equal to 4 percent of net business receipts of the corporation for the taxable year.

''(b) TAXPAYERS TO WHICH SECTION APPLIES.—This section shall apply to any corporation, foreign or domestic, if—

''(1) gross sales in the United States during the tax year of parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, exceeded $10,000,000,

''(2) during that same tax year parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, with a customs value in excess of $10,000,000 were imported into the United States, and

''(3) its tax obligation under this section exceeds its total tax obligation under all other sections of the Internal Revenue Code of 1986.

''(c) CREDIT FOR TAXES PAID.—There shall be a nonrefundable credit against the taxes owed under this section equal to the total of all other taxes paid by the corporation under the Internal Revenue Code of 1986.

''(d) DEFINITIONS.—For purposes of this section:

''(1) NET BUSINESS RECEIPTS.—The term 'net business receipts' means the value of all parts or products sold in the United States, excluding—

''(A) the value of parts or products sold for export,

''(B) expenses paid for parts or products produced in the United States,

''(C) expenses paid for services performed in the United States, and

''(D) amounts paid for income, sales or use taxes imposed by any State, or political subdivision thereof, or by the District of Columbia, Puerto Rico, Guam or the Virgin Islands.

''(2) SUBSIDIARY OR AFFILIATE CONTROLLED BY THE CORPORATION.—An entity shall be considered to be a 'subsidiary or affiliate controlled by the corporation' if the corporation owns 5 percent or more of any class of stock of the entity or if the corporation exercises control over a majority of the board of directors of the entity.''

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

''Part VIII. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

SEC. 10401. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) of the Internal Revenue Code of 1986 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

''(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.''

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) of such Code (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

''(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

''(A) REDEMPTIONS.—In the case of any redemption of stock—

''(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

''(ii) which is not pro rata as to all shareholders, or

''(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

''(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A).''

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting ''September 13, 1995'' for ''May 3, 1995''.

Subtitle E—Foreign Trust Tax Compliance

SEC. 10501. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 of the Internal Revenue Code of 1986 (relating to returns as to certain foreign trusts) is amended to read as follows:

''SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) NOTICE OF CERTAIN EVENTS.—

''(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

''(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

''(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

''(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

''(3) REPORTABLE EVENT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'reportable event' means—

''(i) the creation of any foreign trust by a United States person,

''(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

''(iii) the death of a citizen or resident of the United States if—

''(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

''(II) any portion of a foreign trust was included in the gross estate of the decedent.

''(B) EXCEPTIONS.—

''(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

''(ii) PENSION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

''(I) described in section 404(a)(4) or 404A, or

''(II) determined by the Secretary to be described in section 501(c)(3).

''(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

''(A) the grantor in the case of the creation of an inter vivos trust,

''(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

''(C) the executor of the decedent's estate in any other case.

''(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

''(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

''(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

''(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

''(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

''(A) IN GENERAL.—If the rules of this subsection apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

''(B) UNITED STATES AGENT REQUIRED.—The rules of this subsection shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

''(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

''(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

''(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

''(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

''(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

''(A) the name of such trust,

''(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

''(C) such other information as the Secretary may prescribe.

''(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

''(d) SPECIAL RULES.—

''(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

''(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

''(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and

in such manner as the Secretary shall prescribe.

''(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.''

(b) INCREASED PENALTIES.—Section 6677 of such Code (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

''SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

''(1) is not filed on or before the time provided in such section, or

''(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

''(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

''(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

''(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

''(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

''(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

''(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

''(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

''(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).''

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) of such Code is amended by striking ''or'' at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting '', or'', and by inserting after subparagraph (T) the following new subparagraph:

''(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).''

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is of such Code amended by striking the item relating to section 6048 and inserting the following new item:

''Sec. 6048. Information with respect to certain foreign trusts.''

(3) The table of sections for part I of subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6677 and inserting the following new item:

''Sec. 6677. Failure to file information with respect to certain foreign trusts.''

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 10502. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (B) and inserting the following:

''(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.''

(2) Subsection (a) of section 679 of such Code (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

''(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

''(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

''(i) any obligation of a person described in subparagraph (C), and

''(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

''(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

''(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

''(i) the trust,

''(ii) any grantor or beneficiary of the trust, and

''(iii) any person who is related (within the meaning of section 643(i)(3)) to any grantor or beneficiary of the trust.''

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 of such Code is amended by striking ''section 404(a)(4) or 404A'' and inserting ''section 6048(a)(3)(B)(ii)''.

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 of such Code is amended by adding at the end the following new paragraphs:

''(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

''(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

''(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

''(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

''(5) OUTBOUND TRUST MIGRATIONS.—If—

''(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

''(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.''

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 of such Code is amended by adding at the end the following new paragraphs:

''(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.

''(4) TREATMENT OF FORMER UNITED STATES PERSONS.—To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust.''

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) of such Code is amended to read as follows:

''(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),''.

(f) REGULATIONS.—Section 679 of such Code is amended by adding at the end the following new subsection:

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 10503. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 of the Internal Revenue Code of 1986 (relating to special rule where grantor is foreign person) is amended to read as follows:

''(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

''(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

''(2) EXCEPTIONS.—

''(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to any trust if—

''(I) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

''(II) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

''(ii) EXCEPTION.—Clause (i) shall not apply to any trust which has a beneficiary who is a United States person to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to a foreign person who is the grantor of such trust. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift is excluded from taxable gifts under section 2503(b).

''(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

''(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

''(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

''(B) paragraph (1) shall not apply for purposes of applying part III of subchapter G (relating to foreign personal holding companies) and part VI of subchapter P (relating to treatment of certain passive foreign investment companies).

''(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.''

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting ''subsection (f) and'' before ''sections 674''.

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) of such Code is amended by adding at the end the following new sentence: ''Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.''

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 of such Code is amended by adding at the end the following new subsection:

''(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.''

(2) Section 665 of such Code is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 10504. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6039E the following new section:

''SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

''(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

''(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

''(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

''(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

''(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

''(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

''(2) REASONABLE CAUSE EXCEPTION.— Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Notice of large gifts received from foreign persons.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 10505. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 of the Internal Revenue Code of 1986 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

''(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

''(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

''(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

''(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

''(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

''(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

''(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

''(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

''(i) the undistributed net income for such year, and

''(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

''(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

''(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for

purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for prior taxable years.

''(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

''(A) by using an interest rate of 6 percent, and

''(B) without compounding until January 1, 1996.''

(b) ABUSIVE TRANSACTIONS.—Section 643(a) of such Code is amended by inserting after paragraph (6) the following new paragraph:

''(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.''

(c) TREATMENT OF USE OF TRUST PROPERTY.—

(1) IN GENERAL.—Section 643 of such Code (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

''(i) USE OF FOREIGN TRUST PROPERTY.—For purposes of subparts B, C, and D—

''(1) GENERAL RULE.—If a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

''(A) any grantor or beneficiary of such trust who is a United States person, or

''(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

''(2) USE OF OTHER PROPERTY.—Except as provided in regulations prescribed by the Secretary, any direct or indirect use of trust property (other than cash or marketable securities) by a person referred to in subparagraph (A) or (B) of paragraph (1) shall be treated as a distribution to the grantor or beneficiary (as the case may be) equal to the fair market value of the use of such property. The Secretary may prescribe regulations treating a loan guarantee by the trust as a use of trust property equal to the value of the guarantee.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

''(B) RELATED PERSON.—

''(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

''(ii) ALLOCATION OF USE.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

''(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

''(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

''(4) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.''

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) of such Code is amended by inserting

'', 643(i),'' before ''or 1274'' each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) USE OF TRUST PROPERTY.—The amendment made by subsection (c) shall apply to—

(A) loans of cash or marketable securities after September 19, 1995, and

(B) uses of other trust property after December 31, 1995.

SEC. 10506. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

''(D) any estate or trust if—

''(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

''(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.''

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) of such Code is amended to read as follows:

''(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 of such Code (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

''If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.''

(2) PENALTY.—Section 1494 of such Code is amended by adding at the end the following new subsection:

''(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Subtitle F—Limitation on Section 936 Credit

SEC. 10601. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Paragraph (4) of section 936(a) of the Internal Revenue Code of 1986 (relating to Puerto Rico and possession tax credit) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by striking subparagraph (A) and inserting the following new subsections:

''(A) CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed 60 percent of the aggregate amount of the possession corporation's qualified possession wages for such taxable year.

''(B) CREDIT FOR INVESTMENT INCOME.—

''(i) IN GENERAL.—If—

''(I) the QPSII assets of the possession corporation for any taxable year, exceed

''(II) 80 percent of such possession corporation's qualified tangible business investment for such taxable year,

the credit determined under paragraph (1)(B) for such taxable year shall be reduced by the amount determined under clause (ii).

''(ii) AMOUNT OF REDUCTION.—The reduction determined under this clause for any taxable year is an amount which bears the same ratio to the credit determined under paragraph (1)(B) for such taxable year (determined without regard to this subparagraph) as—

''(I) the excess determined under clause (i), bears to

''(II) the QPSII assets of the possession corporation for such taxable year.''

(b) PHASEDOWN OF CREDIT.—The table contained in clause (ii) of section 936(a)(4)(C) of such Code, as redesigated by subsection (a), is amended to read as follows:

''In the case of taxable years beginning in:	**The percentage is:**
1994	60
1995	55
1996	40
1997	20
1998 and thereafter	0.''

(c) DEFINITIONS AND SPECIAL RULES.—Subsection (i) of section 936 of such Code is amended to read as follows:

''(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

''(1) QUALIFIED POSSESSION WAGES.—For purposes of this section—

''(A) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the possession corporation during the taxable year to any employee for services performed in a possession of the United States, but only if such services are performed while the principal place of employment of such employee is within such possession.

''(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

''(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

''(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

''(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

''(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under clause (i).

''(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall

not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (4) shall be treated as 1 employer for purposes of the preceding sentence.

''(D) WAGES.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

''(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

''(2) QPSII ASSETS.—For purposes of this section—

''(A) IN GENERAL.—The QPSII assets of a possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified investment assets as of the close of each quarter of such taxable year.

''(B) QUALIFIED INVESTMENT ASSETS.—The term 'qualified investment assets' means the aggregate adjusted bases of the assets which are held by the possession corporation and the income from which qualifies as qualified possession source investment income. For purposes of the preceding sentence, the adjusted basis of any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

''(3) QUALIFIED TANGIBLE BUSINESS INVESTMENT.—For purposes of this section—

''(A) IN GENERAL.—The qualified tangible business investment of any possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified possession investments as of the close of each quarter of such taxable year.

''(B) QUALIFIED POSSESSION INVESTMENTS.—The term 'qualified possession investments' means the aggregate adjusted bases of tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis as determined for purposes of computing earnings and profits.

''(4) RELOCATED BUSINESSES.—

''(A) IN GENERAL.—In determining—

''(i) the possession corporation's qualified possession wages for any taxable year, and

''(ii) the possession corporation's qualified tangible business investment for such taxable year,

there shall be excluded all wages and all qualified possession investments which are allocable to a disqualified relocated business.

''(B) DISQUALIFIED RELOCATED BUSINESS.—For purposes of subparagraph (A), the term 'disqualified relocated business' means any trade or business commenced by the possession corporation after October 12, 1995, or any addition after such date to an existing trade or business of such possession corporation unless—

''(i) the possession corporation certifies that the commencement of such trade or business or such addition will not result in a decrease in employment at an existing business operation located in the United States, and

''(ii) there is no reason to believe that such commencement or addition was done with the intention of closing down operations of an existing business located in the United States.

''(5) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

''(A) IN GENERAL.—Any affiliated group may elect to treat all possession corporations which would be members of such group but for section 1504(b)(4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

''(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

''(6) TREATMENT OF CERTAIN TAXES.—Notwithstanding subsection (c), if—

''(A) the credit determined under subsection (a)(1) for any taxable year is limited under subsection (a)(4), and

''(B) the possession corporation has paid or accrued any taxes of a possession of the United States for such taxable year which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c), such possession corporation shall be allowed a deduction for such taxable year equal to the portion of such taxes which are allocable (on a pro rata basis) to taxable income of the possession corporation the tax on which is not offset by reason of the limitations of subsection (a)(4). In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

''(7) POSSESSION CORPORATION.—The term 'possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect.''

(d) MINIMUM TAX TREATMENT.—Clause (iii) of section 56(g)(4)(C) of such Code is amended by adding at the end thereof the following subclauses:

''(III) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

''(IV) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I).''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.-Subformat:

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

SEC. 11001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Veterans Reconciliation Act of 1995''.

(b) TABLE OF CONTENTS.—The contents of the title are as follows:

TITLE XI—VETERANS' AFFAIRS

Sec. 11001. Short title; table of contents.

Subtitle A—Permanent Extension of Temporary Authorities

Sec. 11011. Authority to require that certain veterans agree to make copayments in exchange for receiving health-care benefits.

Sec. 11012. Medical care cost recovery authority.

Sec. 11013. Income verification authority.

Sec. 11014. Limitation on pension for certain recipients of medicaid-covered nursing home care.

Sec. 11015. Home loan fees.

Sec. 11016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.

Subtitle B—Other Matters

Sec. 11021. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.

Sec. 11022. Enhanced loan asset sale authority.

Sec. 11023. Withholding of payments and benefits.

Subtitle C—Health Care Eligibility Reform

Sec. 11031. Hospital care and medical services.

Sec. 11032. Extension of authority to priority health care for Persian Gulf veterans.

Sec. 11033. Prosthetics.

Sec. 11034. Management of health care.

Sec. 11035. Improved efficiency in health care resource management.

Sec. 11036. Sharing agreements for specialized medical resources.

Sec. 11037. Personnel furnishing shared resources.

Subtitle A—Permanent Extension of Temporary Authorities

SEC. 11011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

Section 8013 of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out subsection (e).

SEC. 11012. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out ''before October 1, 1998,''.

SEC. 11013. INCOME VERIFICATION AUTHORITY.

Section 5317 of title 38, United States Code, is amended by striking out subsection (g).

SEC. 11014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f) of title 38, United States Code, is amended by striking out paragraph (7).

SEC. 11015. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out ''and before October 1, 1998''; and

(2) in paragraph (5)(C), by striking out '', and before October 1, 1998''.

SEC. 11016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out paragraph (11).

Subtitle B—Other Matters

SEC. 11021. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.

(a) REVISED STANDARD.—Section 1151 of title 38, United States Code, is amended—

(1) by designating the second sentence as subsection (c);

(2) by striking out the first sentence and inserting in lieu thereof the following:

''(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a

veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

''(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—

''(A) was caused by Department health care and was a proximate result of—

''(i) negligence on the part of the Department in furnishing the Department health care; or

''(ii) an event not reasonably foreseeable; or

''(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

''(2) For purposes of this section, the term 'Department health care' means hospital care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a Department facility (as defined in section 1701(3)(A) of this title).

''(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section.''; and

(3) by adding at the end the following:

''(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

''(1) was the result of Department health care; or

''(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.''.

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking out '', aggravation,'' both places it appears; and

(2) by striking out ''sentence'' and inserting in lieu thereof ''subsection''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any administrative or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.

SEC. 11022. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out ''December 31, 1995'' and inserting in lieu thereof ''September 30, 1996''.

SEC. 11023. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out ''unless'' and all that follows and inserting in lieu thereof the following: ''unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.''.

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting ''with return receipt requested'' after ''certified mail''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

Subtitle C—Health Care Eligibility Reform

SEC. 11031. HOSPITAL CARE AND MEDICAL SERVICES.

(a) ELIGIBILITY FOR CARE.—Section 1710(a) of title 38, United States Code, is amended by striking out paragraphs (1) and (2) and inserting the following:

''(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations Acts for these purposes, provide hospital care and medical services, and may provide nursing home care, which the Secretary determines is needed to any veteran—

''(A) with a compensable service-connected disability;

''(B) whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty;

''(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

''(D) who is a former prisoner of war;

''(E) of the Mexican border period or of World War I;

''(F) who was exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e); and

''(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

''(2) In the case of a veteran who is not described in paragraph (1), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsection (f), furnish hospital care, medical services, and nursing home care which the Secretary determines is needed.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1710(e) of such title is amended—

(A) in paragraph (1), by striking out ''hospital care and nursing home care'' in subparagraphs (A), (B), and (C) and inserting in lieu thereof ''hospital care, medical services, and nursing home care'';

(B) in paragraph (2), by inserting ''and medical services'' after ''Hospital and nursing home care''; and

(C) by striking out ''subsection (a)(1)(G) of this section'' each place it appears and inserting in lieu thereof ''subsection (a)(1)(F)''.

(2) Chapter 17 of such title is amended—

(A) by redesignating subsection (g) of section 1710 as subsection (h); and

(B) by transferring subsection (f) of section 1712 of such title to section 1710 so as to appear after subsection (f), redesignating such subsection as subsection (g), and amending such subsection by striking out ''section 1710(a)(2) of this title'' in paragraph (1) and inserting in lieu thereof ''subsection (a)(2) of this section''.

(3) Section 1712 of such title is amended—

(A) by striking out subsections (a) and (i); and

(B) by redesignating subsections (b), (c), (d), (h) and (j), as subsections (a), (b), (c), (d), and (e), respectively.

SEC. 11032. EXTENSION OF AUTHORITY TO PRIORITY HEALTH CARE FOR PERSIAN GULF VETERANS.

Section 1710(e)(3) of title 38, United States Code, is amended by striking out ''December 31, 1995'' and inserting in lieu thereof ''December 31, 1998''.

SEC. 11033. PROSTHETICS.

(a) ELIGIBILITY FOR PROSTHETICS.—Section 1701(6)(A)(i) of title 38, United States Code, is amended—

(1) by striking out ''(in the case of a person otherwise receiving care or services under this chapter)'' and ''(except under the conditions described in section 1712(a)(5)(A) of this title),'';

(2) by inserting ''(in the case of a person otherwise receiving care or services under this chapter)'' before ''wheelchairs,''; and

(3) by inserting ''except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe,'' after ''reasonable and necessary,''.

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe the guidelines required by the amendments made by subsection (a) and shall furnish a copy of those guidelines to the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 11034. MANAGEMENT OF HEALTH CARE.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new sections:

''§ 1705. Management of health care: patient enrollment system

''(a) In managing the provision of hospital care and medical services under section 1710(a)(1) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

''(1) Veterans with service-connected disabilities rated 30 percent or greater.

''(2) Veterans who are former prisoners of war and veterans with service connected disabilities rated 10 percent or 20 percent.

''(3) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

''(4) Veterans not covered by paragraphs (1) through (3) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

''(5) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(1) of this title.

''(b) In the design of an enrollment system under subsection (a), the Secretary—

''(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

''(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

''(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

''§ 1706. Management of health care: other requirements

''(a) In managing the provision of hospital care and medical services under section

1710(a) of this title, the Secretary shall, to the extent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

''(b) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary—

''(1) may contract for hospital care and medical services when Department facilities are not capable of furnishing such care and services economically, and

''(2) shall make such rules and regulations regarding acquisition procedures or policies as the Secretary considers appropriate to provide such needed care and services.

''(c) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (1) affords those veterans reasonable access to care and services for those specialized needs, and (2) ensures that overall capacity of the Department to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this section.

''(d) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that any veteran with a service-connected disability is provided all benefits under this chapter for which that veteran was eligible before the date of the enactment of this section.''.

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1704 the following new items:

''1705. Management of health care: patient enrollment system.

''1706. Management of health care: other requirements.''.

(b) CONFORMING AMENDMENTS TO SECTION 1703.—(1) Section 1703 of such title is amended—

(A) by striking out subsections (a) and (b); and

(B) in subsection (c) by—

(i) striking out ''(c)'', and

(ii) striking out ''this section, sections'' and inserting in lieu thereof ''sections 1710,''.

(2)(A) The heading of such section is amended to read as follows:

''§ 1703. Annual report on furnishing of care and services by contract''.

(B) The item relating to such section in the table of sections at the beginning of chapter 17 of such title is amended to read as follows:

''1703. Annual report on furnishing of care and services by contract.''.

SEC. 11035. IMPROVED EFFICIENCY IN HEALTH CARE RESOURCE MANAGEMENT.

(a) REPEAL OF SUNSET PROVISION.—Section 204 of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4950) is repealed.

(b) COST RECOVERY.—Title II of such Act is further amended by adding at the end the following new section:

''SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

''(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

''(b) ENFORCEMENT.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.''.

SEC. 11036. SHARING AGREEMENTS FOR SPECIALIZED MEDICAL RESOURCES.

(a) REPEAL OF SECTION 8151.—(1) Subchapter IV of chapter 81 of title 38, United States Code, is amended—

(A) by striking out section 8151; and

(B) by redesignating sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 as sections 8151, 8152, 8153, 8154, 8155, 8156, and 8157, respectively.

(2) The table of sections at the beginning of chapter 81 is amended—

(A) by striking out the item relating to section 8151; and

(B) by revising the items relating to sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 to reflect the redesignations by paragraph (1)(B).

(b) REVISED AUTHORITY FOR SHARING AGREEMENTS.—Section 8152 of such title, as redesignated by subsection (a)(1)(B), is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out ''specialized medical resources'' and inserting in lieu thereof ''health-care resources''; and

(B) by striking out ''other'' and all that follows through ''medical schools'' and inserting in lieu thereof ''any medical school, health-care provider, health-care plan, insurer, or other entity or individual'';

(2) in subsection (a)(2) by striking out ''only'' and all that follows through ''are not'' and inserting in lieu thereof ''if such resources are not, or would not be,'';

(3) in subsection (b), by striking out ''reciprocal reimbursement'' in the first sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof ''payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.'';

(4) in subsection (d), by striking out ''preclude such payment, in accordance with—'' and all that follows through ''to such facility therefor'' and inserting in lieu thereof ''preclude such payment to such facility for such care or services'';

(5) by redesignating subsection (e) as subsection (f); and

(6) by inserting after subsection (d) the following new subsection (e):

''(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

''(1) that such an arrangement will not result in the denial of, or a delay in providing access to, care to any veteran at that facility; and

''(2) that such an arrangement—

''(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

''(B) will result in the improvement of services to eligible veterans at that facility.''.

(c) CROSS-REFERENCE AMENDMENTS.—(1) Section 8110(c)(3)(A) of such title is amended by striking out ''8153'' and inserting in lieu thereof ''8152''.

(2) Subsection (b) of section 8154 of such title (as redesignated by subsection (a)(1)(B)) is amended by striking out ''section 8154'' and inserting in lieu thereof ''section 8153''.

(3) Section 8156 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in subsection (a), by striking out ''section 8153(a)'' and inserting in lieu thereof ''section 8152(a)''; and

(B) in subsection (b)(3), by striking out ''section 8153'' and inserting in lieu thereof ''section 8152''.

(4) Subsection (a) of section 8157 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in the matter preceding paragraph (1), by striking out ''section 8157'' and ''section 8153(a)'' and inserting in lieu thereof ''section 8156'' and ''section 8152(a)'', respectively; and

(B) in paragraph (1), by striking out ''section 8157(b)(4)'' and inserting in lieu thereof ''section 8156(b)(4)''.

SEC. 11037. PERSONNEL FURNISHING SHARED RESOURCES.

Section 712(b)(2) of title 38, United States Code, is amended—

(1) by striking out ''the sum of—'' and inserting in lieu thereof ''the sum of the following:'';

(2) by capitalizing the first letter of the first word of each of subparagraphs (A) and (B);

(3) by striking out ''; and'' at the end of subparagraph (A) and inserting in lieu thereof a period; and

(4) by adding at the end the following:

''(C) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8152 of this title.''.

TITLE XII—LEGISLATIVE BRANCH

SEC. 12101. REQUIREMENT THAT EXCESS FUNDS PROVIDED FOR OFFICIAL ALLOWANCES OF MEMBERS OF THE HOUSE OF REPRESENTATIVES BE DEDICATED TO DEFICIT REDUCTION.

Of the funds made available in any appropriation Act for fiscal year 1996 or any succeeding fiscal year for the official expenses allowance, the clerk hire allowance, or the official mail allowance of a Member of the House of Representatives, any amount that remains unobligated at the end of such fiscal year shall be transferred to the Deficit Reduction Fund established by Executive Order 12858 (58 Fed. Reg. 42185). Any amount so transferred shall be in addition to the amounts specified in section 2(b) of such order, but shall be subject to the requirements and limitations set forth in sections 2(c) and 3 of such order.

Title XIII

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 13101. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEARS 1996, 1997, AND 1998.

(a) CONFORMANCE WITH SCHEDULE FOR CIVIL SERVICE COLAS.—Subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended—

(1) by striking out ''THROUGH 1998'' the first place it appears and all that follows through ''In the case of'' the second place it appears

and inserting in lieu thereof ''THROUGH 1996.—In the case of'';

(2) by striking ''of 1994, 1995, 1996, or 1997'' and inserting in lieu thereof ''of 1993, 1994, or 1995''; and

(3) by striking out ''September'' and inserting in lieu thereof ''March''.

(b) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—Section 8114A(b) of Public Law 103–335 (108 Stat. 2648) is repealed.

SEC. 13102. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as the date of the enactment of this Act, is authorized for disposal under any law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of aluminum, ferro columbium, germanium, palladium, platinum, and rubber contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to—

(A) $21,000,000 during the fiscal year ending September 30, 1996;

(B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and

(C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.

(3) The President is not required to include the disposal of the materials identified in paragraph (2) in an annual materials plan for the National Defense Stockpile. Disposals made under this section may be made without consideration of the requirements of an annual materials plan.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	42,482,323 pounds contained
Ferro Columbium	930,911 pounds contained
Germanium	68,207 kilograms
Palladium	1,264,601 troy ounces
Platinum	452,641 troy ounces
Rubber	125,138 long tons

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a)(2) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) TERMINATION OF DISPOSAL AUTHORITY.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.

(f) DEFINITION.—The term ''National Defense Stockpile'' means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 13103. REQUIREMENT THAT CERTAIN AGENCIES PREFUND GOVERNMENT HEALTH BENEFITS CONTRIBUTIONS FOR THEIR ANNUITANTS.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term ''agency'' means any agency or other instrumentality within the executive branch of the Government, the receipts and disbursements of which are not generally included in the totals of the budget of the United States Government submitted by the President;

(2) the term ''health benefits plan'' means, with respect to an agency, a health benefits plan, established by or under Federal law, in which employees or annuitants of such agency may participate;

(3) the term ''health-benefits coverage'' means coverage under a health benefits plan;

(4) an individual shall be considered to be an ''annuitant of an agency'' if such individual is entitled to an annuity, under a retirement system established by or under Federal law, by virtue of—

(A) such individual's service with, and separation from, such agency; or

(B) being the survivor of an annuitant under subparagraph (A) or of an individual who died while employed by such agency; and

(5) the term ''Office'' means the Office of Personnel Management.

(b) PREFUNDING REQUIREMENT.—

(1) IN GENERAL.—Effective as of October 1, 1996, each agency shall be required to prepay the Government contributions which are or will be required in connection with providing health-benefits coverage for annuitants of such agency.

(2) REGULATIONS.—The Office shall prescribe such regulations as may be necessary to carry out this section. The regulations shall be designed to ensure at least the following:

(A) Amounts paid by each agency shall be sufficient to cover the amounts which would otherwise be payable by such agency (on a ''pay-as-you-go'' basis), on or after the applicable effective date under paragraph (1), on behalf of—

(i) individuals who are annuitants of the agency as of such effective date; and

(ii) individuals who are employed by the agency as of such effective date, or who become employed by the agency after such effective date, after such individuals have become annuitants of the agency (including their survivors).

(B)(i) For purposes of determining any amounts payable by an agency—

(I) this section shall be treated as if it had taken effect at the beginning of the 20-year period which ends on the effective date applicable under paragraph (1) with respect to such agency; and

(II) in addition to any amounts payable under subparagraph (A), each agency shall also be responsible for paying any amounts for which it would have been responsible, with respect to the 20-year period described in subclause (I), in connection with any individuals who are annuitants or employees of the agency as of the applicable effective date under paragraph (1).

(ii) Any amounts payable under this subparagraph for periods preceding the applicable effective date under paragraph (1) shall be payable in equal installments over the 20-year period beginning on such effective date.

(c) FASB STANDARDS.—Regulations under subsection (b) shall be in conformance with the provisions of standard 106 of the Financial Accounting Standards Board, issued in December 1990.

(d) CLARIFICATION.—Nothing in this section shall be considered to permit or require duplicative payments on behalf of any individuals.

(e) DRAFT LEGISLATION.—The Office shall prepare and submit to Congress any draft legislation which may be necessary in order to carry out this section.

SEC. 13104. APPLICATION OF OMB CIRCULAR A–129.

The provisions of Office of Management and Budget Circular No. A–129, relating to policies for Federal credit programs and nontax receivables, as in effect on the date of enactment of this Act, shall apply as provided in that circular.

SEC. 13105. 7-YEAR EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND EXCISE TAXES.

(a) EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—Subsection (e) of section 4611 of the Internal Revenue Code of 1986 is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 2003.''

(2) APPLICATION OF TAX.—Subsection (e) of section 59A (relating to application of environmental tax) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 2003.''

(b) EXTENSION OF REPAYMENT DEADLINE FOR SUPERFUND BORROWING.—Subparagraph (B) of section 9507(d)(3) of such Code is amended by striking ''December 31, 1995'' and inserting ''December 31, 2002''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

TITLE XIV—COMMITTEE ON GOVERNMENTAL AFFAIRS

SEC. 8001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.

Section 11001(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 408) is amended in the matter preceding paragraph (1) by striking out ''or 1996,'' and inserting in lieu thereof ''1996, 1997, 1998, 1999, 2000, 2001, or 2002,''.

SEC. 8002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: ''The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c).''.

(2) AGENCY CONTRIBUTIONS.—

(A) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.—Section 8334(a)(1) of title 5, United States Code (as amended by this section) is further amended—

(i) by inserting ''(A)'' after ''(1)''; and

(ii) by adding at the end thereof the following new subparagraph:

''(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996, through December 31, 2002—

''(I) for each employing agency (other than the United States Postal Service) shall be 8.5 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9 percent of the basic pay of a law enforcement officer and a firefighter, and 9.5 percent of the basic pay of a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and

''(II) for the United States Postal Service shall be 7 percent of the basic pay of an employee and 9 percent of the basic pay of a law enforcement officer.''.

(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(ii) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking out

''7	After December 31, 1969.''

and inserting in lieu thereof the following:

7	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.'';

(B) in the matter relating to a Member or employee for Congressional employee service by striking out

''7½	After December 31, 1969.''

and inserting in lieu thereof the following:

''7.5	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.'';

(C) in the matter relating to a Member for Member service by striking out

''8	After December 31, 1969.''

and inserting in lieu thereof the following:

''8	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.'';

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out

''7½	After December 31, 1974.''

and inserting in lieu thereof the following:

''7.5	January 1, 1975, to December 31, 1995.
7.75	January 1, 1996, to December 31, 1996.
7.9	January 1, 1997, to December 31, 1997.
8	January 1, 1998, to December 31, 2002.
7.5	After December 31, 2002.'';

(E) in the matter relating to a bankruptcy judge by striking out

8	After December 31, 1983.''

and inserting in lieu thereof the following:

''8	January 1, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.'';

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking out

''8	On and after the date of the enactment of the Department of Defense Authorization Act, 1984.''

and inserting in lieu thereof the following:

''8	The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.'';

(G) in the matter relating to a United States magistrate by striking out

''8	After September 30, 1987.''

and inserting in lieu thereof the following:

''8	October 1, 1987, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.'';

and

(H) in the matter relating to a Claims Court judge by striking out

''8	After September 30, 1988.''

and inserting in lieu thereof the following:

''8	October 1, 1988, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.''.

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting ''and subject to paragraph (5),'' after ''Except as provided in subparagraph (B),''; and

(ii) by adding at the end thereof the following new paragraph:

''(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B).''.

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: ''This paragraph shall be subject to paragraph (4).''; and

(ii) by adding at the end thereof the following new paragraph:

''(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee.''.

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

''(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

''(A) the applicable percentage under paragraph (3), minus

''(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

''(3) The applicable percentage under this paragraph, for civilian service shall be as follows:

	''Percentage of basic pay	Service period
Employee	7	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Congressional employee	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Member	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Law enforcement officer, firefighter, or air traffic controller.	7.5	Before January 1, 1996.
	7.75	January 1, 1996, to December 31, 1996.
	7.9	January 1, 1997, to December 31, 1997.
	8	January 1, 1998, to December 31, 2002.
	7.5	After December 31, 2002.

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting ''and subject to paragraph (6),'' after ''Except as provided in subparagraph (B),''; and

(ii) by adding at the end thereof the following:

''(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

''(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

''(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

''(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.''.

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: ''This paragraph shall be subject to paragraph (4).''; and

(ii) by adding at the end the following:

''(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

''(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

''(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

''(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.''.

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.

SEC. 8003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

(a) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—

(1) CSRS.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting ''or Member'' after ''employee''; and

(B) by striking out subsections (b) and (c).

(2) FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking out subsections (b) and (c);

(B) in subsections (a) and (g) by inserting ''or Member'' after ''employee'' each place it appears; and

(C) in subsection (g)(2) by striking out ''Congressional employee''.

(b) ADMINISTRATIVE REGULATIONS.—The Secretary of the Senate and the Clerk of the House of Representatives, in consultation with the Office of Personnel Management, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(c) EFFECTIVE DATES.—

(1) YEARS OF SERVICE; ANNUITY COMPUTATION.—(A) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply only with respect to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed on or after January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee performed on or after January 1, 1996.

(B) An annuity shall be computed as though the amendments made under subsection (a) had not been enacted with respect to—

(i) the service of a Member of Congress as a Member or a Congressional employee or military service performed before January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee or military service performed before January 1, 1996.

(2) REGULATIONS.—The provisions of subsection (b) shall take effect on the date of the enactment of this Act.

NOTICE OF HEARING

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Thursday, November 2, 1995, at 10:00 a.m., in room 562 of the Dirksen Senate Office Building. The hearing will discuss Medicare and Medicaid fraud.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, October 26, 1995 to conduct a mark-up of S. 1260, the Public Housing Reform and Empowerment Act of 1995. In addition, the committee will conduct a mark-up of pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, October 26, 1995 at 9:30 a.m., in room 485 of the Russell Senate Building to conduct a hearing on S. 1327, the Saddleback Mountain-Arizona Settlement Act of 1995, a bill to transfer certain lands to the Salt River Pima-Maricopa Indian Community and the City of Scottsdale, AZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, October 26, 1995 at 9:30 a.m., in room 485 of the Russell Senate Building to conduct a hearing on S. 1341, the Saddleback Mountain-Arizona Settlement Act of 1995, a bill to transfer certain lands to the Salt River Pima-Maricopa Indian Community and the City of Scottsdale, AZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, October 26, 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, October 26, at 9:30 a.m. to hold a hearing to discuss quality of care in nursing homes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 26, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9 a.m. The purpose of this hearing is to receive testimony from academicians and State and local officials on alternatives to Federal forest land management. Testimony will also be sought comparing land management cost and benefits on Federal and State lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMERCE, JUSTICE, STATE APPROPRIATIONS

● Mr. ABRAHAM. Mr. President, I would like to take this time to explain my votes on various amendments to the Commerce, Justice, State appropriations bill which passed on September 29.

The Specter amendment sought to strike the language from this bill that prohibited the use of Federal funds for abortions for women in Federal prison except where the life of the mother would be in danger if the fetus were carried to term or in the case of rape.

The House and the Senate have repeatedly upheld the position that when taxpayer funds are used for abortions, the abortions should be restricted to those pregnancies which are the result of rape or incest or which pose a risk to the life of the mother. I do not think these restrictions should be expanded for women in prison and, therefore, I voted to table the Specter amendment.

Senator KERREY offered an amendment to provide $19.8 million for the National Telecommunications and Information Administration's information infrastructure grants by cutting a like amount from the Justice Department's travel account. I opposed this amendment for several reasons. First, many of the NTIA's duties are duplicative of those carried out by the Federal Communications Commission. The underlying bill moves us toward a unified telecommunications entity, and I believe it is the correct path to take. Second, the infrastructure grants are an unauthorized program that have little relation to the job of regulating the telecommunications industry. Legislation I have sponsored to terminate the Department of Commerce would also eliminate the advisory and grant making functions and transfer the management duties to the FCC.

I also opposed a Domenici amendment to eliminate provisions in the bill which would, in my opinion, vastly improve the Legal Services Corporation.

The Commerce, Justice, State appropriations bill in the Senate eliminated the Federal Corporation and block-granted to the States-Federal funds for the provision of legal services to the poor. The Domenici amendment to this bill would have restored the Federal Corporation and provides additional Federal funding for the Corporation.

I support eliminating the Federal Corporation and block-granting funds

for legal assistance for the poor to the States. The Corporation itself provides no legal services to the poor, but rather grants Federal money to local organizations that give legal assistance to the poor. This is a function the States can perform at least as effectively as the Corporation has.

I also opposed an amendment which was sponsored by Senators KOHL and COHEN which took $80 million from funding for the FBI to combat violent crime and terrorism and put it into $30 million for local block grants for various social programs such as boys and girls club, more palatably dubbed by the sponsors of such measures crime prevention programs, $30 million for additional grants made by the Office of Justice Assistance, and $20 million for additional grants for ''Weed and Seed'' programs.

The initiatives the sponsors sought to fund may well be worthy. In my judgment, however, many of them have no proven record of helping with the fight against crime, the purpose for which Federal crime money should be reserved. To be sure, the sponsors designated between 2 and 3 percent of the money for evaluation of these programs. But in the first place it is unlikely that serious evaluation can be performed with that budget; and in the second place, in my view, we should evaluate the programs before giving them additional funding.●

GOVERNMENT THAT WORKS

● Mr. LEVIN. Mr. President, there has been much talk recently about how our Government is no longer able to solve society's problems, how it is unresponsive to citizens' needs, how people feel they do not have a say in how their country is run, and how it seems that when the Government makes decisions that affect industry, it does not seek their input beforehand. Well, I would like to share with my Senate colleagues a story that should help give a different perception.

It is a story about a mother who suffered a terrible tragedy and through it, summoned the strength and courage to help solve a serious problem across the country. The story is about Thelma Sibley, a woman from Milan, MI, who experienced the worst nightmare of any parent—the death of her child Nancy. Nancy Sibley died from a hidden hazard that no parent could be expected to anticipate. Nancy Sibley was strangled to death by the drawstring of her winter coat when the drawstring caught on a playground slide.

After her child's death, Thelma Sibley became dedicated to ensuring that no other parent would have to relive her experience. Thelma Sibley looked to the Government for help and answers. As it happened, Ann Brown had recently been appointed Chairman of the U.S. Consumer Product Safety Commission. Chairman Brown was well aware of the danger drawstrings presented and reached out to Thelma for help in solving this problem. Working together, Thelma Sibley and Ann Brown were able to bring together representatives from the Nation's 33 leading manufacturers of children's clothing. When these industry officials were presented with the evidence of what these drawstrings were capable of doing, there was no hesitation in their decision to remove drawstrings from virtually all of the 20 million kid's garments manufactured annually in this country.

It is indeed a remarkable story. I commend Thelma Sibley for her courage, and CPSC Chairman Ann Brown for bringing a human face to Government by reaching out personally to Thelma Sibley and working voluntarily with industry to solve this problem. I ask that the text of a Los Angeles Times article detailing this story be printed in the RECORD.

The article follows:

A POWERFUL PAIR

(By Elizabeth Mehren)

BETHESDA, Md.—This could be the story of the bureaucrat and the bereaved mother. Except that neither Ann Brown nor Thelma Sibley comes close to either stereotype.

Brown is a mother of two, grandmother of three and full-time advocate for children. As vice president of the Consumer Federation of America, she was such a thorn in the side of the U.S. Consumer Product Safety Commission that many staffers feared her name. Imagine their reaction in March, 1994, when President Clinton named her to head the agency she so relentlessly watchdogged.

Sibley and her husband, Bob, live on a small farm in Michigan, where for 20 years she has worked as a color and soft-trim designer in the automotive industry. At 46, Sibley is a devout Baptist and projects the kind of calm that bespeaks solid, sensible values. She is probably one of a handful of Americans who refer to Hillary Rodham Clinton as ''the First Mom.''

On Jan. 4, 1994, Sibley's 5-year-old daughter, Nancy, was killed when the drawstring on her winter coat snagged on a spiral slide at her school playground and strangled her. The paths of Brown and Sibley were tied together by that drawstring. Both women see the friendship and collaboration that has blossomed between them as something organic, something vital and something that was probably preordained.

In her office here on the outskirts of Washington, Brown explained, ''Were both strong women, determined women and women of faith. We're also both extremely pragmatic.''

With a perfect poker face, Sibley—a full head taller and 12 years younger than the small, compact Brown—remarked, ''We're twins. But we were separated at birth.''

In Sibley's case, ridding the children's clothing world of the slender string that claimed Nancy's life became a crusade. She remembers all too well how after Nancy's death, her own words—the words of so many parents whose children succumb to tragically preventable accidents—kept pounding in her ears: ''If I'd only known.''

If she'd only known, she would never have bought a coat with a drawstring. If she'd only known, she would have ripped out the drawstrings on every item in Nancy's wardrobe. Never mind that it was January in Michigan—if she'd only known, she wouldn't have bundled Nancy into a hood that closed tight with a string.

After the death of a child, two extreme reactions are common. In one scenario, mothers and fathers descend into a paralyzing miasma. Even the most ordinary of daily activities drains them. Conversely, some parents spin into a maelstrom of action. Psychologists call the latter response agitated depression.

That description captures the flurry of energy Thelma Sibley experienced after Nancy died. For a full seven months, her grief manifested itself kinetically. She ran on high speed but felt nothing. ''I believe God put me in a numb chamber because he knew I had a job to get done,'' Sibley said.

The job began when, reviewing a report to the school board of Ann Arbor, where Nancy's accident occurred, Sibley came across the name of the Consumer Production Safety Commission. ''I had never heard of the agency before that,'' She said.

While it made sense to Sibley that the school board and possibly her own state might investigate Nancy's death, she had no such expectations from the federal government. She viewed Washington as remote and alien, too tied up with politics to care much about people. ''I was very surprised there actually was a federal agency, and that they were actually going to do a report,'' Sibley said.

She was also stunned to discover that drawstrings had been removed from children's clothing in Great Britain in 1976. In the same report she learned that the Canadian province of Ontario, just across the border from Michigan, had taken similar action in 1988, following the drawstring strangulations of five children. Her research also revealed that Nancy was one of a dozen American children to succumb to drawstrings since 1985. The strings were associated with an additional 27 nonfatal accidents.

''I thought, wait a minute, I live in Ann Arbor, Mich. We're not talking Upper Yukon here. How come I didn't know this?'' Sibley said.

Sibley did what she always does in crisis. She prayed. The next thing she knew, she was writing to ''the First Mom.'' She and her husband were not blaming anyone for their daughters death, Sibley wrote, but rather were seeking the voluntary removal of accessories on children's clothing that might cause harm. Since Nancy's accident occurred on an old, outdated slide that was subsequently dismantled, the Sibley's also wanted their child's death to help raise awareness about playground safety.

The White House wasted no time in forwarding Sibley's entreaty to the Consumer Product Safety Commission, the same agency to which Sibley was referred when she contacted the Consumer's Union and Public Citizen, Ralph Nader's organization. This is where the tale takes on a Twilight Zone quality not normally found in stories concerning the federal government, for Brown, newly installed as chairwoman of the agency she once loved to hate, had already taken steps both to ban drawstrings from kids' clothes and to contact Thelma Sibley.

''There was a confluence,'' Brown said. ''Both of us are convinced it was meant to be.''

In Michigan, the inquiry into Nancy Sibley's death made headlines in April, 1994, three months after the death and just weeks after Brown began her government job. Although it was a Sunday when Brown came across the Sibley file, she instantly picked up the phone and called Nancy's parents.

As Brown knew from decades of activism, personal contact with parents is often a first step toward enlisting them as catalysts of change. Nearly 30 years ago, Brown took up her mission when her daughter Laura, then 2, began chewing on what looked like a piece of cherry candy—but turned out to be a potentially poisonous paint pellet. Brown and

Sibley were soon brainstorming—and later, barnstorming.

By then Brown was well aware of the hazards that drawstrings posed for children. She knew about the steps taken in Britain and thought American children were ''just as valuable as British children.'' In addition, Brown said, ''There was already an existing memo about drawstrings, right here, but nothing had been done.''

She also understood the perils of bureaucratic blockage. Legislating compliance was an invitation to inaction, Brown maintained. In a congressional setting, a children's issue was likely to be marginalized, watered-down and tacked on to some unrelated measure, she thought.

So Sibley and Brown called upon a secret weapon known by parents to be fearsome, and usually foolproof. ''Peer pressure,'' Sibley said, nodding knowingly. Brown called a manufacturers' summit conference. No pressure, she said to representatives of the 33 leading makers of kids' clothes who came to her office soon after she brought Sibley onto her team. No threats, Sibley added: ''no lawyers bugging them.''

With no opposition, drawstrings were quietly removed from virtually all of the 20 million children's garments manufactured annually in this country. The low-key, collaborative approach avoided legislative logjams and eliminated any sense of government coercion.

A quick tour of kids' or discount stores shows that where one year ago there were drawstrings, now there is Velcro, elastic or safety flaps to secure a hood or hat.

Compliance was basically a ''nobrainer,'' said Deborah Siegel, general counsel for Baby Guess/Guess Kids in Los Angeles. ''I'm not sure how many companies were aware of what had happened [to Nancy Sibley and other children],'' she said. But once the problem was pointed out by Brown and Sibley, ''it was fairly simple'' to make the necessary design changes.

Sibley and Brown agree that the move toward safer childern's clothing was a fitting memorial for Nancy. But it was by no means the end of their teamwork—nor, they hope, their triumphs. Sibley has channeled her determination into a push to improve playground safety.

She and Brown have taped several video spots showing how parents can monitor classroom and playground equipment that may have been produced or installed before current standards were enforced. Much of this equipment is poorly maintained, and a great deal of it is too high off the ground. In many areas, children still tumble onto hard concrete rather than softer wood chips. Tattered old swings can collapse if a child pushes the sky.

In the course of working together, Sibley and Brown have developed a remarkable relationship. They are girlfriends, and both know this form of friendship to be as mighty as any corporate conglomeration. When Sibley is in Washington, she stays at Brown's house. They work a full day together, then go home and throw on their bathrobes. Over a glass of wine, they settle the problems of the planet while Brown's husband fixes dinner.

''I want you to understand,'' Brown said, ''I do not invite every-one I work with at this agency to come and stay at my house.''

But here's where the girlfriend connection tugs hard, and where the link of motherhood builds fierce bonds. Ann Brown never met Nancy Sibley. But she knows that the brown-eyed girl Bob and Thelma Sibley adopted in infancy was a long-awaited gift. She has heard how Thelma Sibley did the vacuuming with Nancy in a backpack. She knows how much the Sibleys miss Nancy's zeal, her passion and her empathy for people. She instinctively reaches over and clutches Sibley's hand as Sibley recalls how Nancy used to brag that she looked just like Mommy. At this disclosure, both women's eyes cloud up.

In the pyramid of Washington, Brown's agency is nobody's idea of a powerhouse. The Consumer Product Safety Commission narrowly escaped extermination in recent cutbacks, and its current budget remains close to what it was more than a decade ago. Until Brown took over, the commission was widely viewed as moribund.

''Wrong,'' Sibley corrected. ''Dead.''

But Brown and Sibley feel certain that a heavenly cheerleader is breathing life into their efforts. Their work is not just in Nancy's memory, Sibley said, ''it's in her honor.''

Parents who have not lost children often nod approvingly when mothers like Sibley take up a cause. *Catharsis* is a word you often hear. But parents of dead children know that true catharsis is elusive, if it is attainable at all. The hole in your heart is there forever. Still, said Sibley, who has kept her day job in the auto industry while pursuing her unpaid work with Brown, ''You don't cling to 'if only I'd known' ''forever.

''That's fine for a few months,' Sibley said. ''But for me, that's not inner healing. Inner healing is doing something.''

TOP TEN GIVEAWAYS IN SENATE REPUBLICAN BUDGET BILL

● Mr. LEAHY. Mr. President, from the home office in Beebe Plain, VT, I bring you the top 10 giveaways in the Republican budget bill.

10. ''What's white and black all over? A polar bear in an Arctic oil field.'' The bill opens the Arctic National Wildlife Refuge to oil and gas drilling.

9. ''You don't go to jail for this?'' The bill would permit companies to withdraw excess assets from their pension plans.

8. ''One more write-off for the road.'' The bill would allow convenience stores with a gas pump to depreciate their property over 15 years instead of the less generous 39-year period available for other convenience stores.

7. ''And you thought baseball owners were greedy.'' The bill would allow the American College Football Coaches Association to avoid tax penalties and stop an IRS challenge of its pension plan.

6. ''The oil is on the House.'' The bill eliminates the 12.5-percent royalty oil companies used to pay to drill for deep-water oil.

5. ''You can keep the gems—but we're charging you for the dirt.'' In exchange for taking $2 to $3 billion of minerals each year from public lands, mining corporations return a measly $18 million to taxpayers under this bill.

4. ''This should keep' em down on the farm.'' The bill would lift the current $75,000 cap on profits per farmer under Department of Agriculture marketing loan programs so the sky is the limit for wealthy farmers.

3. ''Oh, I thought nurses came with the nursing home.'' The bill repeals national requirements for nursing homes to provide proper health standards—a loophole that will be seized by some to lower the quality of care and life for grandparents and parents.

2. ''Say Aaaah.'' The bill repeals patient protection against excessive doctors' bills, allowing doctors to go after seniors for charges not reimbursed by Medicare.

1. ''Rich guys finish first.'' The bill would give the top one percent of wealthy Americans an average tax break of $5,600 per year while raising taxes on 51 percent of American families —those who earn less than $30,000 a year.●

HONORING THE MIDDLESEX COUNTY VOCATIONAL AND TECHNICAL HIGH SCHOOL

● Mr. BRADLEY. Mr. President, as Plato stated in his Republic, any society which would be strong and healthy, must ensure that every citizen finds an occupation which best suits his or her individual talents. Such a philosophy resonates through the halls of our Nation's vocational schools, and today I rise to honor the oldest vocational school in the country, the Middlesex County Vocational and Technical High School of New Brunswick, NJ.

In the United States, vocational schools play a vital role in maintaining a balance in occupations that are needed to make our society tick and our economy hum. Vocational schools recognize the fact that young adults have talents that lie in a wide range of areas. A natural bent toward mechanics or carpentry which might be left untapped in the normal high school environment, is brought to light, cultivated and celebrated in a vocational high school.

Therefore, it gives me great pleasure to recognize the Middlesex County Vocational and Technical High School, the Nation's oldest such institution. In 1913, the New Jersey State Legislature of Public Law passed chapter 294, providing for the establishment of county vocational schools. A year later, H. Brewster Willis approved a plan to create a vocational school system in Middlesex County. Soon after, schools were set up in New Brunswick, Perth Amboy and Jamesburg which taught such skills as mechanical drawing, carpentry, printing, cooking, dressmaking and agriculture.

Enrollment increased steadily over the years, and the influx of talented students spurred the board of education to create new schools and to expand existing ones. New courses were added and different age groups included as the program began to grow and realize its full potential. In 1949, the State board of education approved the establishment of the Middlesex County Adult Technical School for the purpose of providing full-time pre-employment training for adults in skilled trades and technical occupations. Today, the Middlesex County Vocational and Technical Schools remain a thriving and essential part of New Jersey's economic community. Therefore, I am pleased today to have the opportunity to honor the Middlesex County Vocational and

Technical Schools on the anniversary of its establishment.●

WHAT THE '93 TAX INCREASE REALLY DID

● Mr. KYL. Mr. President, the former Chairman of the President's Council of Economic Advisors, Martin Feldstein, just wrote an article for the Wall Street Journal about the 1993 tax increase.

For many of us, it confirms what we have been saying all along: that tax rate increases and tax cuts change people's behavior. Just because the Government increases taxes doesn't mean that people will pay more to the Treasury. They will respond to the higher rates by earning less, producing less, and investing less.

That is precisely what Mr. Feldstein found. He wrote:

> Because taxpayers responded to the sharply higher marginal tax rates (imposed by President Clinton in 1993) by reducing their taxable incomes, the Treasury lost two-thirds of the extra revenue that would have been collected if taxpayers had not changed their behavior. Moreover, while the Treasury gained less than $6 billion in additional personal income tax revenue, the distortions to taxpayers' behavior depressed their real incomes by nearly $25 billion.

Mr. President, tax rate increases are counterproductive. If the goal is to increase revenues to the Treasury, the better alternative is to cut tax rates.

Lower tax rates stimulate the economy, resulting in more taxable income and transactions, and more revenue to the Treasury. The tax cuts of the early 1980's are a case in point. Revenues increased from $599.3 billion in fiscal year 1981 to $990.7 billion in fiscal year 1989—up about 65 percent.

The tax bill before the Senate today begins to undo some of the damage done by the 1993 tax increase that President Clinton now disavows. As Martin Feldstein points out, however, it does not go far enough. Congress should also revisit the issue next year to consider rolling back the personal tax rate increases that were part of the Clinton tax bill.

I ask that the entire text of Mr. Feldstein's article be printed in the RECORD.

The article follows:

[From The Wall Street Journal]

WHAT THE '93 TAX INCREASES REALLY DID

(By Martin Feldstein)

President Clinton was right when he recently told business groups in Virginia and Texas that he had raised taxes too much in 1993, perhaps more so than he realizes. We now have the first hard evidence on the effect of the Clinton tax rate increases. The new data, published by the Internal Revenue Service, show that the sharp jump in tax rates raised only one-third as much revenue as the Clinton administration had predicted.

Because taxpayers responded to the sharply higher marginal tax rates by reducing their taxable incomes, the Treasury lost two-thirds of the extra revenue that would have been collected if taxpayers had not changed their behavior. Moreover, while the Treasury gained less than $6 billion in additional personal income tax revenue, the distortions to taxpayers' behavior depressed their real incomes by nearly $25 billion.

HOW IT HAPPENS

To understand how taxpayer behavior could produce such a large revenue shortfall, recall that the Clinton plan raised the marginal personal income tax rate to 36% from 31% on incomes between $140,000 ($115,000 for single taxpayers) and $250,000, and to 39.6% on all incomes over $250,000. Relatively small reductions in taxable income in response to these sharply higher rates can eliminate most or all of the additional tax revenue that would result with no behavioral response.

If a couple with $200,000 of taxable income reduces its income by just 5% in response to the higher tax rate, the Treasury loses more from the $10,000 decline in income ($3,100 less revenue at 31%) than it gains from the higher tax rate on the remaining $50,000 of income above the $140,000 floor ($2,500 more revenue at 5%); the net effect is that the Treasury collects $600 less than it would have if there had been no tax rate increase.

Similarly, a couple with $400,000 of taxable income would pay $18,400 in extra taxes if its taxable income remained unchanged. But if that couple responds to the nearly 30% marginal tax rate increase by cutting its taxable income by as little as 8%, the Treasury's revenue gain would fall 67% to less than $6,000.

How can taxpayers reduce their taxable incomes in this way? Self-employed taxpayers, two-earner couples, and senior executives can reduce their taxable earnings by a combination of working fewer hours, taking more vacations, and shifting compensation from taxable cash to untaxed fringe benefits. Investors can shift from taxable bonds and high yield stocks to tax exempt bonds and to stocks with lower dividends. Individuals can increase tax deductible mortgage borrowing and raise charitable contributions. (I ignore reduced realizations of capital gains because the 1993 tax rate changes did not raise the top capital gains rate above its previous 28% level.)

To evaluate the magnitude of the taxpayers' actual responses, Daniel Feenberg at the National Bureau of Economic Research (NBER) and I studied the published IRS estimates of the 1992 and 1993 taxable incomes of high income taxpayers (i.e., taxpayers with adjusted gross incomes over $200,000, corresponding to about $140,000 of taxable income). We compared the growth of such incomes with the corresponding rise in taxable incomes for taxpayers with adjusted gross incomes between $50,000 and $200,000. Since the latter group did not experience a 1993 tax rate change, the increase of their taxable incomes provides a basis for predicting how taxable incomes would have increased in the high income group if its members had not changed their behavior in response to the higher post-1992 tax rates. We calculated this with the help of the NBER's TAXSIM model, a computer analysis of more than 100,000 random, anonymous tax returns provided by the IRS.

We concluded that the high income taxpayers reported 8.5% less taxable income in 1993 than they would have if their tax rates had not increased. This in turn reduced the additional tax liabilities of the high income group to less than one-third of what they would have been if they had not changed their behavior in response to the higher tax rates.

This sensitivity of taxable income to marginal tax rates is quantitatively similar to the magnitude of the response that I found when I studied taxpayers' responses to the tax rate cuts of 1986. It is noteworthy also that such a strong response to the 1993 tax increases occurred within the first year. It would not be surprising if the taxpayer responses get larger as taxpayers have more time to adjust to the higher tax rates by retiring earlier, by choosing less demanding and less remunerative occupations, by buying larger homes and second homes with new mortgage deductions, etc.

The 1993 tax law also eliminated the $135,000 ceiling on the wage and salary income subject to the 2.9% payroll tax for Medicare. When this took effect in January 1994, it raised the tax rate on earnings to 38.9% for taxpayers with incomes between $140,000 and $250,000 and to 42.5% on incomes above $250,000. Although we will have to wait until data are available for 1994 to see the effect of that extra tax rate rise, the evidence for 1993 suggests that taxpayers' responses to the higher marginal tax rates would cut personal income tax revenue by so much that the net additional revenue for eliminating the ceiling on the payroll tax base would be less than $1 billion.

All of this stands in sharp contrast to the official revenue estimates produced by the staffs of the Treasury and of the Congressional Joint Committee on Taxation before the 1993 tax legislation was passed. Their estimates were based on the self-imposed ''convention'' of ignoring the effects of tax rate changes on the amount that people work and invest. The combination of that obviously false assumption and a gross underestimate of the other ways in which taxpayer behavior reduces taxable income caused the revenue estimators at the Treasury to conclude that taxpayer behavior would reduce the additional tax revenue raised by the higher rates by only 7%. In contrast, the actual experience shows a revenue reduction that is nearly 10 times as large as the Treasury staff assumed.

This experience is directly relevant to the debate about whether Congress should use ''dynamic'' revenue estimates that take into account the effect of taxpayer behavior on tax revenue. The 1993 experience shows that unless such behavior is taken into account, the revenue estimates presented to Congress can grossly overstate the revenue gains from higher tax rates (and the revenue costs of lower tax rates). Although the official revenue estimating staffs claim that their estimates are dynamic because they take into account some taxpayer behavior, the 1993 experience shows that as a practical matter the official estimates are close to being ''static'' no-behavioral-response estimates because they explicitly ignore the effect of taxes on work effort and grossly underestimate the magnitude of other taxpayer responses.

CURRENT PROPOSALS

In Congress had known in 1993 that raising top marginal tax rates from 31% to more than 42% would raise less than $7 billion a year, including the payroll tax revenue as well as the personal income tax revenue, it might not have been possible for President Clinton to get the votes to pass his tax increase.

Which brings us back to President Clinton's own statement (half-recanted the next day) that he raised taxes too much in 1993. Congress and the president will soon be negotiating about the final shape of the 1995 tax package. The current congressional tax proposals do nothing to repeal the very harmful rate increases of 1993. Rolling back both the personal tax rates and the Medicare payroll tax base to where they were before 1993 would cost less than $7 billion a year in revenue and would raise real national income by more than $25 billion. Now that the evidence is in, Congress and the president should agree to undo a bad mistake. ●

OAK PARK'S 50TH ANNIVERSARY

● Mr. LEVIN. Mr. President, I rise today to commemorate the 50th anniversary of the founding of the city of Oak Park, MI. The Family City is most proud of the fact that, despite its great growth over the past 50 years, it has remained primarily a residential community.

Oak Park, MI, was established when voters approved the proposed City Charter on October 29, 1945, and decided that the city should remain a community of families and homes. Over the years, Oak Park residents have remained committed to keeping home as the center of their community. The residents of Oak Park have fought several times to keep large construction projects from changing the face and the feel of their community.

Soon after its inception, Oak Park was dubbed ''The City with a Future.'' In the 1940's, Oak Park had about a thousand residents and a municipality of just over 5 square miles, which was originally developed in the 19th century from a swampy, densely wooded hunting ground. Oak Park grew quickly when many World War II veterans took advantage of GI loans to purchase houses and settle in the area. The city was identified as one of the fastest growing municipalities in the country during the 1950's. It was during this period that the local government structured the municipal services that so effectively serve its residents. During the 1960's, Oak Park had established itself as a mature city with a virtually unchanged population level.

The year 1976 was a turning point in Oak Park's history. When it was named an official Bicentennial City. It is fitting that, during this celebration of the birth of our Nation and the ideals on which it was founded, Oak Park started the transition to the city it is today. Oak Park soon began welcoming newcomers from a variety of backgrounds and adopted a new motto: ''The Family City.'' The city also initiated a program which was dedicated to maintaining the cohesiveness of the community.

Today, Oak Park is a friendly residential community which boasts a population representing over 70 ethnic groups. It celebrated its varied ethnic heritage this year with its 11th Annual International Ethnic Festival.

The city of Oak Park represents the best of what America has to offer—a safe, residential community where all people are welcome.●

WORLD POPULATION AWARENESS WEEK

● Mr. CHAFEE. Mr. President, I rise today in strong support of World Population Awareness Week, which is being observed internationally this week. We are all aware of the challenges we will face in the next century regarding the world's population. According to recent projections by the United Nations, world population is expected to increase by close to 100 million people annually through the year 2015. Within 20 years, the Earth's population will have sharply increased to total 7.7 billion people. Nearly all of this increase will be in the poorest countries in the world, causing overall increases in poverty, illiteracy, environmental problems, hunger, and malnourishment, and a significant strain on the world's natural resources. If area populations continue their rapid growth, the resulting outcome could have a devastating effect on the United States, the world economy, and our planet.

To avoid massive catastrophes, we must begin to reduce run-away population growth through voluntary, rational, humane means. This is the message of World Population Awareness Week, recognized internationally from October 22–29, 1995. I am proud to say that Rhode Island's Governor Lincoln Almond is one of several State Governors to proclaim World Population Awareness Week. In doing so, he asked all Rhode Islanders to join him in ''supporting the Cairo Program of Action,'' a 20-year strategy for stabilizing world population. He also called on ''all government and private organizations to do their part to implement the document.'' I support Governor Almond's proclamation and request that his proclamation be printed in the RECORD.

The 1994 International Conference on Population and Development in Cairo, Egypt was the first important step in the worldwide effort to arrest the huge growth in the world's population. All Americans should be proud of the integral role our delegation played in developing a set of recommendations to curb population growth. We must continue to promote international efforts to inform people about the consequences of dramatic population growth, and I respectfully urge my colleagues to join me in supporting World Population Awareness Week.

The proclamation follows:

THE GOVERNOR OF THE STATE OF RHODE ISLAND—PROCLAMATION

Whereas, world population is currently 5.7 billion, and increasing by nearly 100 million per year, with virtually all of this growth added to the poorest countries and regions; and

Whereas, the annual increment to world population is projected to exceed 86 million through the year 2015, with three billion people, the equivalent of the entire world population as recently as 1960, reaching their reproductive years within the next generation; and

Whereas, the environmental and economic impacts of this level of growth will almost certainly prevent inhabitants of poorer countries from improving their quality of life, and at the same time, affect the standard of living in more affluent regions; and

Whereas, the 1994 International Conference on Population and Development in Cairo, Egypt, crafted a 20-year Program of Action for achieving a more equitable balance between the world's population, environment, and resources, approved by 180 nations, including the United States:

Now, therefore, I, Lincoln Almond, Governor of the State of Rhode Island and Providence Plantations, do hereby proclaim, October 22–29, 1995 as World Population Awareness Week. In the State of Rhode Island and call on all citizens to join with me in recognizing this important week and supporting the Cairo Program of Action and call on all governments and private organizations to do their part to implement the document.●

TRIBUTE TO THE FIFTIETH ANNIVERSARY OF THE SAINT FRANCIS ACADEMY

● Mr. SMITH. Mr. President, I rise today to pay tribute to The Saint Francis Academy in honor of their 50th anniversary. For 50 years now, this outstanding institution has provided guidance and direction to troubled youths and their families through 40 different rehabilitation and therapeutic programs across the United States.

With offices in Kansas, Mississippi, New York, Massachusetts, Ohio, Pennsylvania, and New Mexico, the Saint Francis Academy helps hundreds of children and teenagers develop into responsible and successful adults. Even more impressive is the fact that the Saint Francis Academy program has achieved a scientifically documented success rate of over 70 percent for youth completing residential treatment. This is among the highest success rate in the United States for an organization of this kind.

Founded in 1945 by Father Bob, the academy was originally called the St. Francis Boys' Home. The first residential facility was opened in Ellsworth, KS with the philosophy of therapy in Christ. Within 3 years, another treatment center in Salina, KS opened and began serving conduct disordered youths age 12 through 18. The Saint Francis Academy has grown progressively within the last 50 years with new programs being developed almost every year. In 1990, the academy began an intense 10-day therapeutic wilderness program at Lake Placid called the Adirondack Experience.

In 1945 when Father Bob opened the first facility in Ellsworth, youngsters stayed in the program for an average of 2 to 3 years. Now the average length of time is only 6 to 8 months. The Saint Francis Academy currently helps 150 young men and women achieve success and find personal strength in the spiritual aspect of the programs. They are affiliated with the Episcopal Church.

The Saint Francis Academy staff follow up with the young men and women who graduate from the program three times over a period of 5 years. This is probably one of the most fundamental reasons the academy is so proud of their high success rate. In fact, two graduates of the Camelot program in Lake Placid, NY have gone on to be doctors and lawyers. Father Orville Gatti, a close friend of mine who I greatly admire, is the Chaplain and a therapist at the Lake Placid Academy and has helped a number of youths.

I salute the Saint Francis Academy as it celebrates 50 years of changing the lives of our Nation's young people.●

CLINTON-SOEHARTO MEETING

• Mr. FEINGOLD. Mr. President, as President Clinton prepares for his meeting with President Soeharto of Indonesia tomorrow, we are hearing a lot about Indonesia's recent economic achievements, and its great potential for United States investment. I also salute Indonesia's economic success, and believe there are many valuable lessons in Indonesia's experience which can be applied to other developing countries throughout the world.

But, Mr. President, today I rise to highlight ongoing concerns about Indonesia's continuously dismal record on human rights. Repression, occupation, and brutality, such as that practiced by Indonesia, are ingredients for instability, and undermine long-term, sustainable economic growth. In fact, I would submit that unfortunately, Indonesia's potential will go unrealized until its human rights record improves.

Freedom of expression is under attack by the Indonesian Government. In the past year, gag orders have been placed on controversial figures, prominent journalists have been arrested and sentenced to prison, and seminars of nongovernmental organizations have been broken up. In addition, the country's only independent trade union, the Prosperous Workers Union of Indonesia, is virtually banned, and its members are routinely interrogated and harassed. The Indonesian military regularly intercedes in peaceful gatherings with impunity. Foreign business and professionals cannot function effectively in this kind of environment.

In Irian Jaya, there are numerous credible reports of torture, disappearances, and the killing of 16 indigenous people by Indonesian forces in the last year.

Indonesia's stability also depends upon the military withdrawal from the territory of East Timor. For that reason, it is in the interests of President Clinton, the international business community, and the donors to take an interest and aggressively pursue an effective human rights strategy for Indonesia.

Last year, when Presidents Clinton and Soeharto met in Jakarta, President Clinton gave the issue of human rights attention. However, since then, there has been an escalation of tensions and violence in East Timor.

For example, reports of arbitrary detentions and incidents of torture by Indonesian soldiers have been continuous all year. Forms of Indonesian torture are reported to include electric shocks by cattle prod; slashings with razor blades and knives; sleep deprivation; and hanging people upside down by their feet.

On January 12 of this year, six civilians in Liquicia were reported summarily executed by the Indonesian military. Even the Government-appointed National Commission on Human Rights found that there was ''a process of intimidation and torture by security officials'' which resulted in ''unlawful shootings by the military.'' For this, two officers were punished not for murder, but for violating an order from a superior.

There has also been an outbreak of gang violence in East Timor. Hooded vigilantes, described by residents and human rights monitors as military-related bands and commonly known as ''Ninjas,'' have been terrorizing, abducting, assaulting, intimidating, and harassing East Timorese civilians. Notably, the Ninjas have not been reigned in by the same military that has so effectively suppressed the East Timorese opposition. There must be an investigation into the operations of these groups, and why they are permitted to continue terrorizing the East Timorese.

These recent incidents underscore the need to accelerate the United Nations sponsored dialog on East Timor with genuine East Timorese participation. The dialog should be the vehicle by which the numerous U.N. resolutions be implemented. The dialog should also be aimed at demilitarizing the territory, and working toward a just resolution that respects the rights of all parties to the conflict.

While administration rhetoric has been supportive of the East Timorese, United States policy has not been forceful enough. For example, the administration has not applied much pressure to encourage the Indonesians to participate seriously in the U.N. talks. It has never devised a strategy, or requested a plan from the Indonesians, for troop withdrawal from East Timor. There have been few, if any suggestions, of what else the United States can do to leverage human rights reform beyond raising the issue.

In fact, I often get the feeling that the administration is trying to placate the same Indonesian military that is guilty of so many horrendous abuses. For example, the administration has lobbied fervently to get the United States taxpayer to subsidize Indonesian military training, when Indonesia has been purchasing IMET courses out of its own pocket for the past four years. Now, the administration is trying to sell Indonesia F–16 aircraft, despite a ban on the sale of small arms which is explicitly linked to human rights violations. Furthermore, I am unclear as to what the administration has actually expressed to Indonesia as to what is our human rights policy regarding linkage to arms sales.

Tiptoeing around the violence and occupation is not going to work. Rather, I believe that publicity and international condemnation would be more effective. As a tiger economy, Jakarta has much invested in its image. And its international image should reflect its potential and accomplishments. But it should also include Indonesia's brutality and disrespect for human rights.

President Clinton has an opportunity here not only to communicate his sincere commitment to human rights, but also to implement a substantive plan of action which can improve the lot of the East Timorese, and also enhance Indonesia's long-term development prospects. President Soeharto, who knows well his own country's battle and victory against Dutch colonialism 50 years ago this year, should understand the principle of self-determination we are advocating for East Timor.•

COMMEMORATING ARCHILLE LAURO'S 10TH ANNIVERSARY

• Mr. D'AMATO. Mr. President, I rise to urge you to stand with me against the blight of terrorism that is growing throughout the world. We need legislation to toughen our antiterrorism laws in response to the growth of this scourge. During the tenth anniversary of the hijacking of the Achille Lauro and the killing of one of its passengers Leon Klinghoffer, I ask you to take the time to support my request for such legislation before the United States bears the brunt of another terrorist act.

Americans are the focus for many terrorist acts overseas. Now, we are becoming targets at home. Americans are increasingly exposed to the deadly realities of terrorism. Ten years ago Leon Klinghoffer was singled out by terrorists for execution and summarily dumped over the side of the cruise ship *Achille Lauro*. The mastermind behind this act, Abul Abbas, continues to elude international authorities to this day. We need to be able to run these criminal masterminds to ground wherever they hide.

In 1993, terrorists bombed the World Trade Center murdering six innocent people and injuring over 1,000 more. We were lucky the structure withstood the blast and did not collapse. We could have faced thousands of murdered people. We need to be able to block the actions and designs of international terrorists.

Earlier this year, Oklahoma City was targeted by domestic terrorists. This time, Americans were graphically confronted with the specter of hundreds of mangled bodies. Our children were viciously mauled by the passions of an unstable youth and his accomplices. We need to be able to thwart the evil ambitions of such internal fringe groups.

Just weeks ago, ten Islamic extremists were found guilty of conspiring to carry out a campaign of terrorism and assassination against New York City landmarks and officials.

These incidents highlight the growing threat of terrorism and the need for improved United States' antiterrorism measures. Final passage of comprehensive antiterrorist legislation will represent a concrete step toward extinguishing the threat of terrorism by increasing the difficulty and cost in perpetrating heinous acts such as these. We have seen terrorism become a way of life for many other nations. We cannot allow this complacency to occur in

the United States. If anyone such as Abul Abbas or his conspirators can be discovered in our country, perhaps other destructive attacks may be averted.

Mr. President, on this, the tenth anniversary of the *Achille Lauro* tragedy, the threat of terrorism is undiminished. It is our responsibility to act collectively to thwart forces pursuing these acts and to block the financiers condoning international terrorist activity. We need action and we need it now. Our people cannot continue to endure the depridations of these extremist murderers. Thank you Mr. President.●

UNANIMOUS CONSENT REQUEST—S. 1357

Mr. GRAMS. Mr. President, we have now reached the point where there is no further debate time allowed under the statute that governs this reconciliation bill, including time allotted to Senator ROTH for the Finance Committee amendment. I am informed by the Democratic leader that they will have 30 or more amendments or points of order that they intend to offer and get votes on prior to passage.

Therefore, I ask unanimous consent that all remaining votes after the first vote tomorrow be limited to 7½ minutes and each Senator with an amendment is asked to submit a one-line description of their amendment to the chairman for him to read in explanation of the amendment, and that Senator MIKULSKI be permitted to offer a motion to instruct the conferees prior to the vote on final passage.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Mr. President, I object.

Mr. President, let me take a moment to explain. I am extremely distressed, concerned and apprehensive about what is going to happen tomorrow. All night I have been asking to see the amendment that the Finance Committee is going to offer as its final amendment in the so-called tier two. And now at 12:17 a.m., we have yet to receive a copy of this amendment.

Under the agreement that was reached previously, we are going to be placed in a situation which this amendment of undetermined length but, I anticipate, significant length and complexity, is going to be offered with 10 minutes to debate equally divided, and then ostensibly a vote.

I object to that procedure, and until a satisfactory resolution can be achieved, either in terms of agreeing to extend the time of debate so there can be reasonable opportunity to understand what is in that Finance Committee amendment or, if there is an unwillingness to provide for that extended debate, then at a minimum, a reading of the Finance Committee amendment, so that we will all have an opportunity to know its contents before we are called on to vote on it, will be insisted upon or at least will be a condition of granting consent to the request which has now been made.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I hope the Senator from Florida will not object. There are three provisions in this unanimous consent request that specifically assist Democratic Senators. First, we want to protect the Senator from Maryland to offer her motion to instruct. Second, we want to give Democratic Senators the opportunity to explain all of the 30-plus amendments that we have available to us. And third, we are accommodating another Senator in starting when we are to assure that she does not miss the first vote.

So I hope that after all the negotiations that we have made in good faith on both sides that the agreement, which has nothing to do with the Roth amendment, would be allowed to be accommodated, and we will, as I have given him my word, deal with the Roth amendment to accord additional time and additional understanding tomorrow.

This agreement has nothing to do with tier two. It only has to do with the third tier, directly affecting virtually every Democratic amendment still pending.

So I hope that the Senator will not object, and we could work with Republican managers tomorrow to accommodate the concerns, legitimate as they are. There are concerns I share in terms of attempting to better understand what the Roth amendment would do.

Mr. GRAHAM. Mr. President, I am still compelled to object, unless as part of this unanimous-consent request some unanimous consent provision is inserted which will deal with the Roth amendment, either a unanimous-consent request to expand the time for consideration of the Roth amendment or a unanimous-consent request that no motion to waive the reading of the Roth amendment would be in order. Either of those two would be acceptable, the first being much more preferable.

When we adopted this unanimous-consent agreement that set up the procedure for the three-tier system of consideration, I did not contemplate that at this late moment we were going to receive a major Finance Committee amendment with no opportunity to know its contents, understand its implications and be in a position to cast an informed vote as to its acceptability.

I am particularly concerned, Mr. President, about the provisions that might relate to Medicare and Medicaid, which I understand are going to be two of the areas covered by the Roth amendment.

These have great importance to all of the citizens of America, and especially to the citizens of my State. I intend to fully understand what the implications of any changes are before the matter is brought before the Senate for a vote.

Mr. DASCHLE. Mr. President, let me reiterate, I have great sympathy for the Senator from Florida. It is his right to ask for a reading, and it would take unanimous consent to dispense with the reading. So the Senator is protected under the rules, should he choose to have the amendment read.

I hope that he will recognize that we will certainly work, as I have throughout this process, with him and all of our Democratic colleagues, to protect our rights, to ensure that Senators are accommodated. I will work with him in this regard as well. We just need to get on with the business of moving this legislation, as it relates to all of our amendments.

This largely is an agreement that we have requested. It would undermine my ability to deal with the leader as it relates to disposing of these amendments were we not to get this unanimous consent request tonight.

Mr. GRAMS. Shall I renew the request?

Mr. GRAHAM. I will object until some provision is inserted that either provides for adequate time to consider the Roth amendment, or a statement that no motion to waive the reading of the Roth amendment would be in order.

Mr. GRAMS. I will tell the Senator from Florida that it will be the majority leader's intention to attempt to shorten the votes from 15 minutes to 7½ minutes beginning tomorrow morning at 9:15.

Mr. GRAHAM. It would be my intention to resist those efforts until such time as we can be assured that there is adequate opportunity to be informed of and knowledgeable about the provisions in the Roth amendment.

I think it is an outrage that now, at 12:22 a.m., we are yet to be provided with a copy of what will probably be the most significant proposal on this most significant legislation.

Mr. GRAMS. Mr. President, again, I would like to say that we will attempt to talk with the majority leader and Chairman ROTH in the morning to try and accommodate the request of the Senator from Florida. We cannot do that any more this evening. Those efforts will be made in the morning.

Mr. GRAHAM. We will all gather.